

Town of Harpswell Maine 2021

Subdivision Ordinance

TOWN OF HARPSWELL

SUBDIVISION ORDINANCE

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Amended March 9, 2013
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Amended March 14, 2015
Amended March 11, 2017
Amended March 10, 2018
Amended June 8, 2021
(This replaces the Subdivision Ordinance reenacted March 19, 1990)

***Citizen's Note**: Generally, a subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period in accordance with State Law (30-A M.R.S.A. §4401[4]) as that subsection may be amended from time to time. For a specific, determination, consult the Code Enforcement Officer.*

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SECTION 1. PURPOSE

The purpose of this Ordinance is to further the intent of Harpswell's Comprehensive Plan in protecting the safety, health, and quality of the environment, including groundwater resources, and the future quality of life in the Town, and to encourage use of the best planning by private developers. This Ordinance also seeks to establish an orderly, equitable, and expeditious procedure for reviewing subdivision applications and to provide clear standards that encourage orderly growth in the community. To this end the Planning Board shall follow the procedures and criteria in this Ordinance when reviewing subdivision applications and before granting approval shall find that the provisions of this Ordinance and State rules and regulations have been met.

SECTION 2. AUTHORITY AND ADMINISTRATION

2.1. This Ordinance is known as the "Town of Harpswell Subdivision Ordinance", it governs subdivisions within the limits of the Town, and replaces the Town Subdivision Ordinance re-enacted on March 10, 1990. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, part 2, section 1 of the Maine Constitution and 30-A Maine Revised Statutes Annotated (M.R.S.A.), § 3001, municipal subdivision law 30-A M.R.S.A. § 4401 et seq., as the same may be amended from time to time.

Throughout this Ordinance there are "Citizen's Notes". These notes shall not be considered part of this Ordinance as adopted by the Town, but shall only be considered as an aid for citizens to use and as a guide to the intent of ordinance provisions and their proper interpretation.

2.2. The Planning Board shall administer this Ordinance.

2.3. If, after review of the Town's Site Plan Review Ordinance pursuant to 30-A M.R.S.A. § 4402(6), as it may be amended from time to time, the Planning Board determines that the Town's Site Plan Review Ordinance provides for a review and approval process for the division of a new or existing structure into three (3) or more dwelling units whether the division is accomplished by sale, lease, development or otherwise and their accessory structures that is at least as stringent as that provided by this Subdivision Ordinance, then the Planning Board shall review applications for approval of multi-unit residential uses and their accessory structures under the Town's Site Plan Review Ordinance.

2.4. Definitions

For purposes of this Ordinance, certain terms or words used herein shall be defined as set forth in the Definitions Addendum, as may be amended from time to time.

SECTION 3. APPLICABILITY

This Ordinance applies to all parcels of land proposed for subdivision in accordance with 30-A M.R.S.A. § 4401[4], as that section may be amended from time to time, or division of land within the boundaries of the Town of Harpswell previously subdivided.

For purposes of this Ordinance, a tract or parcel of land means all contiguous land in the same ownership, provided that lands located on opposite sides of a road are not considered separate

tracts or parcels of land unless the road was established by the owner of land on both sides of the road before September 22, 1971.

SECTION 4. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost and at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 5. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance, unless otherwise provided by State law.

SECTION 6. CONFLICT WITH OTHER ORDINANCES

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute, the more restrictive shall control unless otherwise provided by state law.

SECTION 7. WAIVER AND MODIFICATION OF SUBDIVISION SUBMISSIONS

The Planning Board may modify or waive any of the preliminary conceptual plan or final subdivision plan submission requirements when it determines that, because of the size of the project or circumstances of the site, these requirements would not be applicable or would be an unnecessary burden on the applicant and that a modification or waiver would not adversely affect the Planning Board's ability to evaluate whether the application meets the standards of 30-A M.R.S.A. § 4401 et seq., as may be amended from time to time, and Section 6 of this Ordinance. These modifications shall not modify the standards as contained in the Ordinance.

When the Planning Board grants a waiver to any of the submissions required by this Ordinance for a final subdivision plan, the approved subdivision plan shall indicate the waivers granted and the date on which they were granted.

SECTION 8. SUBMISSION OF DOCUMENTS AND REVIEW SCHEDULE

8.1. Application Review Process

8.1.1. Pre-application Procedures

8.1.1.1. Prior to submitting a formal application for subdivision review to the Planning Board, the applicant and/or his/her representative shall attend a preapplication conference with the Town Planner or his/her designee. A preapplication conference is mandatory and an application will not be accepted for processing until a preapplication conference has been held. The preapplication conference shall be informal and informational in nature. There is no fee for a preapplication conference, and such a meeting shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. §302, as it may be amended from time to time.

The purposes of the preapplication conference are to:

(a) Allow the staff to understand the nature of the proposed subdivision and the issues involved in the proposal;
(b) Allow the applicant to understand the subdivision review process and required submissions and fees;
(c) Allow the staff to provide the applicant with written material about two approaches for subdivision design, the Flexible Lot Size approach and the Two Acre Lot Size approach and to discuss the potential for applying each of these approaches to the proposed subdivision;
(d) Identify potential issues that need to be addressed in future submissions; and
(e) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

8.1.1.2. There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Town Planner:

(a) The proposed site, including its location, size, and general characteristics;
(b) The nature of the proposed subdivision;
(c) Any issues or questions about existing municipal regulations and their applicability to the project; and
(d) Any anticipated requests for waivers from the submission requirements and the basis for the requests.

8.1.1.3. Following the preapplication conference with the Town Planner, the applicant may proceed with preparing and submitting an application for submission to the Planning Board.

8.1.2. Preliminary Conceptual Plan

An applicant for subdivision review, other than a lot line amendment in accordance with Section 8.13, shall prepare and submit to the Planning Board a preliminary conceptual plan and related information for study, and, if necessary, alteration and modification, prior to the submission of a final plan. Preliminary conceptual plans shall comply with the requirements set forth in Section 8.3. The Planning Board review of the preliminary conceptual plan submission shall be informational and shall not result in any formal approval or disapproval of the project by the Planning Board. The Planning Board shall review the submission to determine if the information provides a clear understanding of the parcel's characteristics and its potential for subdivision and development and if the preliminary conceptual plan is consistent with the development and conservation potential of the parcel. The applicant may request that the review of the preliminary conceptual plan submission be done in two (2) steps to allow feedback from the Planning Board to be considered in the preparation of the conceptual subdivision plan. In this case, the first step is the review of the site inventory and analysis (Section 8.3.1.2) and the second step is the subsequent review of the preliminary conceptual subdivision plan (Section 8.3.1.3). The outcome of the review process shall be a determination by the Planning Board of the issues and constraints that must be addressed in the final

subdivision application including any suggested revisions to the conceptual subdivision plan. The applicant shall not submit the final plan until the applicant has received from the Planning Office written comments summarizing the Planning Board's review of the preliminary conceptual plan. Review of the preliminary conceptual plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of suitability of the design submitted on the preliminary conceptual plan as a guide to the preparation of the final plan. The Planning Board shall complete its review of the preliminary conceptual plan application within seventy-five (75) days of finding the application to be complete unless the applicant chooses to have the application reviewed in two steps. In this case, the Planning Board shall complete its review of the site inventory and analysis within forty-five (45) days of its initial consideration and its review of the preliminary conceptual plan within sixty (60) days of the initial consideration of the preliminary conceptual plan. All of these time frames may be extended with the consent of the applicant.

8.1.2.1. Preliminary Conceptual Plan Expiration
Within one (1) year of the completion of the review of the preliminary conceptual plan, the applicant shall submit the final plan, which shall be prepared in accordance with Section 8.3, or else said preliminary conceptual plan review shall expire.

8.1.3. Final Plan
A final plan shall comply with the requirements set forth in Section 8.3 and include the following additional items:

(a) Space for the signatures of a legal majority of the Planning Board, the date of approval, and the words "Approved by the Town of Harpswell Planning Board, pursuant to 30-A M.R.S.A. § 4401 et seq., as may be amended from time to time.";
(b) One (1) or more original drawing meeting the requirements of the Cumberland County Registry of Deeds for the recording of plans;
(c) Identification of all terms and conditions of approval adopted by the Planning Board, including the following standard condition of approval: "The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board";
(d) Proper identification of the location of all permanent monuments; and
(e) A performance guarantee in accordance with the requirements of Section 10.

8.2. Applications

All applications for a subdivision shall be submitted to the Planning Office at least twenty-one (21) working days in advance of a regularly scheduled Planning Board meeting. The applicant shall provide ten (10) copies of the application, plans, and supporting documentation.

The Planning Office shall issue a dated receipt to the applicant. The Town Planner or his/her designee shall review the submission to determine its compliance with the applicable submission requirements. If the Town Planner deems the application to be provisionally complete for

placement on the Planning Board's agenda, the application shall be scheduled for the next Planning Board meeting for a formal review of completeness, unless the agenda cannot accommodate the request, in which case, it will be scheduled for the next Planning Board meeting. If the Town Planner deems the application to be incomplete, she/he shall advise the applicant in writing of that determination together with the additional or corrected information required and shall inform the applicant in writing that the application will not be placed on the Planning Board's agenda until it is complete. If the applicant disagrees with the Town Planner's provisional determination, the applicant may request that the chair of the Planning Board include the application on the Planning Board's next available agenda.

8.3. Submissions

The Planning Office shall submit to the Planning Board Chair the ten (10) copies of the complete subdivision plan, application, and a copy of the dated receipt showing when the application was received by the Planning Office.

The Planning Office shall issue a dated receipt, both to the applicant and to the Code Enforcement Office, showing the fact that the plans have been received for consideration.

A complete application shall include:

8.3.1. Preliminary Conceptual Plan Application

A complete application for preliminary conceptual plan review shall include four (4) components as follows:

1. A completed application form;
2. A location map in compliance with Section 8.3.1.1;
3. A site inventory and analysis in compliance with Section 8.3.1.2; and
4. A conceptual subdivision plan based on the four (4) step design process as set forth in Section 8.3.1.3.

8.3.1.1. Location Map

The location map shall be adequate to show the relationship of the proposed subdivision to adjacent properties, and to allow the Planning Board to locate the subdivision within the Town. The map shall show:

8.3.1.1.1. All areas within one thousand (1,000) feet of the property line of the proposed subdivision;

8.3.1.1.2. Existing subdivisions in the proximity of the proposed subdivision referenced by the Registry of Deeds book and page number;

8.3.1.1.3. Location, names, and widths of existing and proposed rights-of-way;

8.3.1.1.4. Boundaries and designations of zoning districts; and

8.3.1.1.5. An outline of the proposed subdivision and any remaining portion of the applicant's property if the location map covers only a portion of the applicant's entire contiguous holding.

8.3.1.2. Site Inventory and Analysis

The site inventory and analysis is intended to provide both the applicant and the Planning Board and staff with an understanding of the parcel and the opportunities and constraints imposed on its use and development by both the natural and built environment. It is anticipated that this analysis will result in a development plan that reflects the conditions of the parcel and that the areas most suitable for the proposed use will be utilized while those that are not suitable or present significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements contained herein provide that the applicant submit basic information about the parcel and an analysis of that information.

The site inventory and analysis must contain, at a minimum, all of the following information:

8.3.1.2.1. The names, addresses, and phone numbers of the record owner and the applicant.

8.3.1.2.2. The names and addresses of all consultants working on the project, such as the surveyor, engineer, land planner, site evaluator, wetlands scientist.

8.3.1.2.3. Evidence of right, title, or interest in the property.

8.3.1.2.4. Ten (10) copies of an accurate scale inventory plan of the parcel or the portion of the parcel proposed for subdivision at a scale of not more than one hundred (100) feet to the inch showing as a minimum:

(a) The name of the development, north arrow, date and scale.
(b) The boundaries of the parcel.
(c) The relationship of the parcel to the surrounding area, including nearby conservation land and subdivisions within one thousand (1,000) feet of the parcel.
(d) The topography of the parcel at an appropriate contour interval as determined by the Town Planner or his/her designee depending on the nature of the use and character of the parcel (in most instances, 2' contours will be necessary unless no grading or infrastructure construction is planned).
(e) The major natural features of the parcel and those located within five hundred (500) feet of the parcel, including coastal and freshwater wetlands, significant vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats and fisheries or other important natural features (if none, so state). This information must be based on field determination for the parcel to be subdivided, unless the Planning Board determines that information from available, published sources is adequate to allow the review of the opportunities and constraints of the parcel. The information on conditions on adjacent property may be from available, published sources.
(f) The location or existence of historic, archaeological, scenic or other critical resources and culturally significant features on the parcel.
(g) A Class B high intensity soil survey for the portion of the parcel proposed to be developed.
(h) The proposed method of sewage disposal, including the results of all site evaluations to determine the suitability for on-site sewage disposal showing both test pits that are acceptable and those that are not.

(i) The location of any areas with known or suspected groundwater quality or quantity problems that may limit the ability to establish on-site wells.
(j) Existing buildings, structures, or other improvements on the lot and on adjacent lots within two hundred fifty (250) feet of the parcel (if none, so state).
(k) Existing restrictions or easements on the lot (if none, so state).
(l) The location and size of existing utilities or improvements servicing the lot (if none, so state).

8.3.1.2.5. Ten (10) copies of a site analysis plan at the same scale as the inventory plan (see Section 8.3.1.2.4 above) highlighting the opportunities and constraints of the parcel. This plan should enable the Planning Board to determine: which portions of the parcel are unsuitable for development or use (Primary Conservation Areas); which portions of the lot are unsuitable for on-site sewage disposal; which areas of the lot have development limitations or conservation value (e.g. soil constraints, groundwater issues, wildlife habitat, fisheries, scenic vistas, drainage concerns, historic or archaeological resources) that should be addressed in the development plan; which areas may be subject to off-site conflicts or concerns (e.g., noise, lighting, traffic, existing dwellings on adjacent lots); and which areas are most suited to the proposed use.

8.3.1.2.6. Ten (10) copies of a narrative describing the existing conditions of the parcel, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

8.3.1.3. Conceptual Subdivision Plan

The conceptual subdivision plan must be based on the site inventory and analysis and reflect the suitability of the parcel for development and conservation identified in the analysis. The plan shall show the general layout of the subdivision, including the locations of dwelling sites or building envelopes, lot lines, streets, protected or common open space, and other common facilities. The plan shall be drawn at the same scale as the site analysis plan. The plan shall be developed based on the following Four Step Design Process and the steps shall be documented: Applicants shall submit a plan that is the end result of this process, but may be asked by the Planning Board to submit four (4) separate sketch maps indicating the findings resulting from each step of the design process. In deciding whether it is necessary to submit separate sketch maps for each of the steps listed above, the Planning Board shall consider the size of the parcel and whether the site includes a significant amount of environmentally sensitive areas.

The following four (4) step design process is intended to allow the developer the full potential of the legally allowable number of lots, while at the same time preserving valuable natural resources and open space.

8.3.1.3.1. Step 1 of the 4 Step Design Process: Delineation of Natural Resource or Conservation Areas

A. Identify the portions of the parcel that have significant development restrictions due to natural constraints (Primary Conservation Areas) or that have significant natural or cultural

resource value (Secondary Conservation Areas) based on the site analysis.

B. If the applicant is proposing a Flexible Lot Size subdivision, calculate the area of required open space in accordance with the provisions of Section 9.4.3 of this ordinance.

C. If the applicant is proposing a Flexible Lot Size subdivision, designate the proposed location of open space(s) on the conceptual subdivision plan based on Section 9.4.3. This should be done on the basis of practical considerations related to the tract's configuration, its context to resource areas on neighboring properties, the priorities listed in Section 9.4.3 for open space areas, and the applicant's subdivision objectives.

D. If the applicant is not proposing a Flexible Lot Size subdivision, designate areas that are not appropriate for development as dwelling sites and adjacent areas, roads, and other structural improvements.

8.3.1.3.2. Step 2 of the 4 Step Design Process: Location of Dwelling Sites

Potential dwelling sites shall be tentatively located using the results of Step 1 as a base, as well as other relevant data from the Site Analysis, such as topography and soils. Dwelling sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas, as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences. In addition, the dwelling sites should be located taking into account the location of existing dwellings on lots adjacent to the subdivision, the character of the area between the existing dwellings and the potential dwelling sites, and the potential for negative impacts on existing dwellings. The location of the dwelling sites in a Flexible Lot Size Subdivision should avoid concentrating units in the portions of the site immediately adjacent to existing dwellings outside of the subdivision.

8.3.1.3.3. Step 3 of the 4 Step Design Process: Alignment of Streets

Upon designating the dwelling sites, a street plan shall be designed to provide vehicular access to each dwelling and bearing a logical relationship to topographic conditions. Impacts of the street plan on natural resources or proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding twenty percent (20%). Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from dwellings in different parts of the tract (and adjoining parcels) while minimizing the potential for cut-thru traffic and speeding.

8.3.1.3.4. Step 4 of the 4 Step Design Process: Drawing in the Lot Lines

Upon completion of the preceding three (3) steps, lot lines shall be drawn as required to delineate the boundaries of individual lots. Wherever possible, lot lines shall be perpendicular to the street.

8.3.2. Final Subdivision Plan Application

The final subdivision plan shall consist of one (1) or more maps to a scale of not more than fifty (50) feet per inch. The following information shall either be shown on the final subdivision plan or accompany the application for the final subdivision plan. Information indicated with an asterisk may be submitted as part of an updated site inventory and analysis:

Section	Submission Requirement	Lot Line Amendment	Minor Sub.	Major Sub.
8.3.2.1.	Proposed name of subdivision plan	X	X	X
8.3.2.2.	The Tax Assessor's map and lot numbers for the property proposed to be subdivided.	X	X	X
8.3.2.3.	Verification of right, title, or interest in the property	X	X	X
8.3.2.4.	A standard boundary survey as specified by the Board of Licensure for Professional Land Surveyors.	X	X	X
8.3.2.5.	The topography of the site shall be shown by two (2) foot contour intervals in relation to mean sea level. The Planning Board may allow larger contour intervals or require more detailed contour information if it finds that the information is necessary to complete review of the application. Existing buildings, springs, water courses, wetlands, vegetative cover, rock outcroppings, and other essential existing physical features shall also be located.		X	X
8.3.2.6.	A copy of all existing and proposed covenants, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property, delineated wherever possible.	X	X	X
8.3.2.7.	The number of acres within the proposed subdivision, the square footage of proposed lots.	X	X	X
8.3.2.8.	The date the plan was prepared, magnetic north arrow, graphic map scale, names and addresses of the record owner, applicant, engineer, and individual or company who prepared the plan, including appropriate seals.	X	X	X
8.3.2.9.	Names of record owners of abutting properties, including any properties directly across rights-of-way or traveled ways. For purposes of abutter notifications, a separate list of abutters with addresses should be submitted.	X	X	X
8.3.2.10.	The location of any zoning boundaries affecting the property and a description of the proposed uses to be located on the site, including quantity and type of residential units.	X	X	X
8.3.2.11.	A copy of the Cumberland County Medium Intensity Soil Survey.		X	X

8.3.2.12.	Proposed method of sewage disposal, including site evaluations indicating suitability of the soil for sewage disposal on each lot. Test pit analyses and completed sewage disposal design prepared by a licensed site evaluator, shall be provided. Each test pit or boring must be staked and identified on the subdivision plan. If a variance is required according to the Maine State Plumbing Code, the Planning Board may request a second evaluation to be done by the State Division of Health Engineering or by a professional designated by the Planning Board. The proposed subdivision plan shall also indicate the locations where wells cannot be located because of sewage disposal setbacks.		X	X
8.3.2.13.	Proposed type of water supply system(s) and documentation by a Certified Geologist or Registered Engineer that the groundwater system will support adequate supply and quality.			X
8.3.2.14.	Proposed method for handling solid waste disposal		X	X
8.3.2.15.	Documentation of adequate water quantity to serve the subdivision based on information from neighboring wells, obtained from property owners and well drillers.		X	
8.3.2.16.	The location, proposed names, widths, grades, road profiles, radii, length of curves, and central angle of curves for all existing and proposed road rights-of-way, pavement and/or gravel lines, and entrances to a public road. Copies of Maine Department of Transportation (MDOT) approval for entrances onto existing State highways shall also be required.		X	X
8.3.2.17.	An estimate of the amount, type, and impact of vehicular traffic to be generated on a daily basis and at peak hours based on the assumption of two (2) cars per residential dwelling unit or a figure generated from the most recent edition of a recognized trip generation manual.			X
8.3.2.18.	The location of existing or proposed utilities on or adjacent to the subdivision.		X	X
8.3.2.19*.	The boundaries of any flood hazard areas and the one hundred (100) year flood elevation as defined by the Federal Emergency Management Agency (FEMA).	X	X	X
8.3.2.20.	A surface drainage plan that shows the location and size of ditches, culverts, drainage ways, easements, and other improvements on or adjacent to the proposed subdivision and the direction of flow.	X	X	X
8.3.2.21.	Description of any problems with drainage, soils, or topography, or a representation that, in the opinion of the applicant, none exist.		X	X

8.3.2.22.	A hydrogeologic assessment prepared by a Certified Geologist experienced in hydrogeology if: 8.3.2.22.1. Documented problems exist with the quality or quantity of water in wells in the vicinity of the development; or 8.3.2.22.2. Part of the subdivision is located in the area recommended as having lot sizes of 4.2 acres on Map 3 "Recommended minimum lot sizes based on Groundwater Protection" of the 1987 Comprehensive Plan and the applicant proposes lot sizes of less than 4.2 acres; or ***Citizen's Note:*** *The 4.2 acre restriction is not automatically part of the Subdivision Ordinance.* 8.3.2.22.3. The assessment shall include: 8.3.2.22.3.1. The depth of the water table at representative points throughout the proposed development 8.3.2.22.3.2. Data on existing groundwater quality and quantity, either from test wells in the subdivision, from existing wells on neighboring property, or from data gathered during development of the 1993 Comprehensive Plan ***Citizen's Note****: This information is on file in the Code Enforcement Office* 8.3.2.22.3.3. Existing and post-construction drainage conditions throughout the proposed subdivision 8.3.2.22.3.4. A map showing the location of all existing and proposed subsurface wastewater disposal systems and all existing and proposed drinking wells within the subdivision and all existing systems within three hundred (300) feet of its boundary 8.3.2.22.3.5. Assessment of the potential for saltwater intrusion when the proposed subdivision is located adjacent to areas reporting high chloride content of drilled wells as shown on Map 2 "Future Land Use Map" of the 1993 Comprehensive Plan or where there is evidence for potential saltwater intrusion 8.3.2.22.3.6. A map showing the location of all existing and proposed subsurface wastewater disposal systems and all existing and proposed drinking wells within the subdivision and all existing systems within three hundred (300) feet of its boundary		X	X

8.3.2.23*.	The location or existence of historic, archeological, scenic, or other critical resources known to exist in the proposed subdivision. For any proposed land use activity involving structural development or soil disturbance on sites listed on the National Register of Historic Places, the applicant shall provide evidence that they have submitted their proposal to the Maine Historic Preservation Commission for review and comment. The Planning Board may require a written statement from the Maine Historic Preservation Commission indicating the proposed development will not adversely impact archeological or historic resources or recommending how the proposed development might be modified to minimize any adverse impact on archeological or historic resources.		X	X
8.3.2.24.	Written statement of how proposed subdivision plan fits in with the character of the Town as set forth in the most recently adopted edition of the Town's Comprehensive Plan.		X	X
8.3.2.25*.	The location of significant wildlife habitat or rare and irreplaceable natural areas located in or near the proposed subdivision as identified by the Department of Inland Fisheries and Wildlife (IFW) and the Natural Heritage Data Base in the Department of Economic and Community Development (DECD) or in the 1987 or 1993 Comprehensive Plans, and shellfish habitats and other marine environments which may be affected by the development.		X	X
8.3.2.26*.	The location, names, and dimensions of existing and proposed public or private parks and other open spaces on or adjacent to the subdivision and a description of any proposed improvements and their management.			X
8.3.2.27.	If parks or other open spaces are proposed to be deeded to the Town, a homeowners/landowners association, land trust, or other non-profit organization, the location of the open space shall be shown on the subdivision plan. Written offers of cession to the organization and copies of agreements or documents showing the manner in which open spaces will be retained by the applicant or lot owners shall be submitted.			X
8.3.2.28.	If a homeowners/landowners association is to be formed, documentation of the standards contained in Paragraph 9.16 of this Ordinance.		X	X
8.3.2.29.	A soil erosion and sedimentation control plan in conformance with Section 9.7 of this Ordinance.		X	X
8.3.2.30.	Location and dimensions of all fencing and screening.			X
8.3.2.31.	Construction cost estimates for improvements to be completed by the applicant prior to the sale of lots and an estimate of the time period required for completion of the development.		X	X

8.3.2.32.	Subdivisions proposed for offshore islands must provide maps indicating mainland support facilities, including private landings, moorings, and a minimum of two (2) parking spaces for each lot. Also required is documentation of title, right, or interest in mainland property for support facilities. If mainland support facilities are located in another municipality, the applicant must provide a written statement of approval from that municipality.		X	X
8.3.2.33.	If the subdivision plan involves substantial improvements, such as construction of utilities, the Planning Board may require evidence of financial capacity to complete the proposed improvements.		X	X
8.3.2.34.	The following approvals, if applicable, must be obtained in writing: 8.3.2.34.1. A Wastewater Discharge License if required from the Maine Department of Environmental Protection (DEP); 8.3.2.34.2. Approval from the Maine Department of Human Services (DHS) if an engineered sewage disposal system is to be utilized or if the applicant proposes to provide a central water supply system; or 8.3.2.34.3. Approval from the Local Plumbing Inspector indicating that the wastewater disposal permits can be obtained		X	X
8.3.2.35.	At the option of the applicant or the Planning Board, any other information that may be necessary for the full and proper consideration of the subdivision plan.	X	X	X
8.3.2.36.	Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify and provide a copy of the original signed plan being revised or amended.	X	X	X

*Note: When the Planning Board requires the applicant to seek comments from a group or agency outside of Town Officials, including but not limited to the Harpswell Historical Society and Maine Department of Inland Fisheries and Wildlife, the applicant shall provide written documentation of the request for comments. The applicant shall include in the written request reference to this Section of the Ordinance which specifies that if the applicant has not received written comments from the specified group or agency within forty-five (45) days of receipt of the request, the Planning Board may assume that the group or agency has no concerns with the proposed development.

8.3.3. Fee for Independent Consulting Services

In addition to the application fee, every application for a subdivision shall be accompanied by the payment of an independent consulting fee assessed on a per lot or per dwelling unit basis, whichever amount is greater, in such amount as may be established by the Board of Selectmen from time to time. The payment shall be deposited in an individual trust account which is separate and distinct from all other Planning Board and Town accounts.

The Planning Board may use the funds in the individual trust account to hire independent consulting services to review the application. The applicant shall provide additional funds, as necessary, to cover the cost of independent consulting services.

Any balance in the account remaining after a decision on the application by the Planning Board, whether approved or denied, shall be refunded to the applicant after all payment of all consulting services related to review of the subdivision.

8.4. Notification

When an application for either a preliminary conceptual plan or a final subdivision plan is received, the Municipal Office, at the applicant's expense, shall give a dated receipt to the applicant and shall notify, by first class mail, all record owners of abutting properties and the clerk and reviewing authority of any 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. Failure of any property owner to receive the notice sent as required under this subsection shall not necessitate another public meeting or invalidate any action taken by the Planning Board.

8.5. Determination of Complete Application

Within thirty (30) days of receipt of a subdivision plan and fee, the Planning Board shall notify the applicant in writing whether or not the application is complete, and if incomplete, of any additional submissions which are required.

A fee schedule for subdivision applications shall be established and revised from time to time by the Selectmen after notice, public hearing, and recommendation of the Planning Board in conformance with 30-A M.R.S.A. § 4355, as may be amended from time to time. Application fees shall be payable by check to the Town. Application fees are to be paid at the time of submission of a preliminary conceptual plan or at the time of submission of a final plan for those applications that file a preliminary and final plan simultaneously.

Upon determination that a complete application has been submitted, the Planning Board shall issue a dated receipt to the applicant. If the Planning Board determines the application is incomplete, the application will be heard at the Planning Board meeting following submission of a complete application.

The Planning Board may notify a number of appropriate departments, committees, or individuals of the application for the proposed subdivision, including but not limited to the Road Commissioner, Harpswell SAD 75 representatives, Conservation Commission, Marine Resources Committee, local Fire Chief, and other affected parties as appropriate. The Planning Board may request that these officials and the Code Enforcement Office comment upon consistency with local codes and the adequacy of departments to service the proposed subdivision.

8.6. Site Visits

After submission of a complete application for a preliminary conceptual plan, the Planning Board shall conduct a site visit to provide members the opportunity to view the site. The site visit shall

be scheduled prior to the meeting at which the application is considered so that all parties, including the applicant or representative of the applicant, owners of abutting properties and interested members of the public, have reasonable opportunity to participate as a matter of due process as a public proceeding under Maine's Right to Know Law, 1 M.R.S.A. §401 et seq., as may be amended from time to time. The Planning Board may hold a second site visit when the application for a final plan is received following the same procedures.

8.7. Public Hearing

The Planning Board shall hold a public hearing on all final subdivision applications within thirty (30) days of determination of a complete application. The Planning Board shall publish notice of the date, time, and place of the meeting in a local newspaper at least two (2) times. The date of the first publication must be at least seven (7) days prior to the public hearing. In addition, the Planning Board, at the applicant's expense, shall notify by first class mail, all record owners of abutting property. Failure of any property owner to receive the notice sent under as required this subsection shall not necessitate another public meeting or invalidate any action taken by the Planning Board. To be considered by the Planning Board, all comments must be received in writing prior to this public hearing, or made verbally at the public hearing.

8.8. Planning Board Review

The Planning Board shall discuss the final plan application at a regularly scheduled meeting within forty-five (45) days of receipt of a complete application.

8.8.1. The applicant, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the subdivision plan. In the case of an authorized representative, the Planning Board will require a letter showing that the representative is in fact authorized to represent the applicant.

8.8.2. Before the Planning Board grants approval of the subdivision, the Planning Board shall find that the applicant has met all standards of 30-A M.R.S.A., § 4404, as it may be amended from time to time, and Section 9 of this Ordinance in accordance with Section 8.9 below.

8.8.3. Before the Planning Board grants approval of the subdivision, the applicant shall meet the performance guarantee requirements contained in Section 10 of this Ordinance.

8.9. Planning Board Approval or Denial of the Subdivision

The Planning Board shall, within thirty (30) days of a public hearing, and/or within sixty (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:

8.9.1. Denying approval of the proposed subdivision, or

8.9.2. Granting approval of the proposed subdivision, or

8.9.3. Granting approval upon any terms and conditions that it considers advisable to:

8.9.3.1. Satisfy the criteria listed in 30-A M.R.S.A. § 4404, as may be amended from time to time,

8.9.3.2. Satisfy the criteria and regulations adopted under the provisions of this Ordinance, and

8.9.3.3. Protect and preserve the public's health, safety, and general welfare.

The reasons for any denial, conditions of approval, or other stipulations shall be stated in the written findings of the Planning Board. If the Planning Board grants a waiver of any submission requirement, it shall state in the written findings the character and extent of the waiver, specify that the waiver has been granted in accordance with Section 7 of this Ordinance, and will not inhibit the Planning Board's ability to evaluate whether the application meets the standards of 30-A M.R.S.A. § 4401 et seq., as may be amended from time to time, and Section 9 of this Ordinance.

The action of the Planning Board shall be recorded on the subdivision plan with the date of action over the signatures of the members of the Planning Board.

When the subdivision is approved, the applicant shall pay the cost of reproducing the required copies of the approved plan for Town records.

8.10. Recording of the Approved Subdivision Plan

The applicant shall, within ninety (90) days of Planning Board approval, submit the signed subdivision plan to the Cumberland County Registry of Deeds and report the book and page numbers to the CEO within one hundred and twenty (120) days so the references can be recorded on the Town's copies of the plan. The plan shall either contain all the conditions of approval or the applicant shall record a separate document that contains all the conditions of approval under the same terms and provisions as those applying the plan. If the applicant fails to record the signed plan and report the book and page number to the CEO within the required time frame, approval shall be null and void and the CEO shall note that fact on all Town records.

8.11 Inspection of Subdivision Improvements

The following provisions shall apply to any subdivision that includes as part of the approved subdivision plan the construction of capital improvements including but not limited to roads, drainage facilities, common areas, and similar facilities.

8.11.1 Pre-Construction Notice – At least ten (10) working days prior to the start of construction of any improvements the subdivider or his/her contractor, engineer or other agent shall notify the Code Enforcement Office in writing of the planned start of construction.

8.11.2 Inspection of Construction – Prior to the start of construction the Code Enforcement Officer shall determine whether inspection of the improvements will be the responsibility of the Code Enforcement Officers or whether the Town will need to retain outside assistance in conducting the inspections of the facilities.

8.11.3 Outside Inspection Services – If the Code Enforcement Officer determines that outside assistance is needed to provide for the inspection of the improvements, the subdivider shall deposit an amount equal to two (2) percent of the estimated costs of the improvements to

pay for the costs of the inspections. The funds shall be held in a separate account and shall be used only for the purpose of inspecting the improvements. If there are any unexpended funds in the account at the satisfactory closeout of all construction activity, the remaining balance shall be returned to the subdivider. If the inspection fund is drawn down by more than ninety (90) percent and the Code Enforcement Officer determines that there is a need for further inspection services, the subdivider shall deposit an addition one (1) percent of the estimated construction costs in the account. Once the initial deposit is made, the Code Enforcement Officer shall arrange for appropriate inspection services from a qualified individual.

8.11.4 Inspections – The Code Enforcement Officer or outside inspector shall conduct periodic inspections of the improvements. If the inspecting official finds that any of the improvements are not being or have not been constructed in accordance with the approved plans, conditions of approval, and/or Town's ordinances the inspector or Code Enforcement Officer shall prepare a written report documenting the deficiencies. The report shall be provided to the subdivider and his/her engineer and/or contractor and to the chair of the Planning Board. The Code enforcement Officer shall take any necessary steps to ensure compliance with the approved plans. If the subdivider fails to correct the deficiencies the Code Enforcement Officer shall refer the matter to the Board of Selectmen for enforcement action.

8.12. Plan Revisions after Approval

No changes may be made in any subdivision plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications in conformance with 30-A M.R.S.A. § 4404 and Section 12 of this Ordinance, as may be amended from time to time. This provision does not prohibit minor field changes during construction, made with the approval of the CEO or his or her delegate. In the event that an amended plan is recorded without complying with this requirement, it shall be considered null and void and the Planning Board shall record at the Registry of Deeds and with the Town Clerk an affidavit stating the facts and setting forth the legal conclusion that the plan is null and void.

8.13. Phasing of Development

The Planning Board may permit the subdivision plan to be divided into two (2) or more separate and distinct phases subject to any conditions it deems necessary to insure the orderly development of the plan. This may be accomplished by limiting approval to those lots or areas abutting that phase of the proposed subdivision road which is covered by a performance guarantee. When development is phased, road and any other construction shall commence from an existing public way. Approval of lots or other development in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

If the subdivision plan requires the Town to expand, add to, or purchase new facilities, the applicant shall provide an alternative development plan, including but not limited to phasing, construction delays to coincide with public funding of the required improvements, and/or private funding options.

8.14. Lot Line Amendments

Any proposal to revise, relocate or otherwise amend the lot line (or lines) of a lot (or lots) shown on a subdivision plan that has been previously approved by the Planning Board that, if approved

by the Planning Board, would result in the same or smaller number of lots as existing prior to the proposed lot line amendment must still be reviewed and approved by the Planning Board, but the applicant may submit an abbreviated application as set forth in Section 8.3.2 regarding submission requirements for a "Lot Line Amendment."

SECTION 9. APPROVAL STANDARDS

When reviewing any subdivision plan, the Planning Board shall determine that the proposed subdivision in conjunction with any other existing or approved development meets the review criteria in 30-A M.R.S.A § 4404 and this Section, as may be amended from time to time.

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 Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in this Section.

9.1. Conformance

All proposed developments must be in conformity with all pertinent local, State, and Federal ordinances, laws, and regulations.

9.2. Municipal Services

The proposed development shall not have an unreasonable adverse impact on municipal services including the municipal road systems, fire department, solid waste program, schools, and other municipal services and facilities.

9.3. Preservation of the Landscape

The landscape must be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. The Planning Board may allow the removal of trees to create open meadows and scenic vistas which are part of the overall subdivision.

9.4. Lots

9.4.1. Two-Acre Lot Size Subdivisions – The minimum lot size for lots in a Two-Acre Lot Size subdivision shall be eighty thousand (80,000) square feet per dwelling unit. The minimum road frontage per lot for subdivisions shall be one hundred fifty (150) feet, and the minimum shore frontage per lot for subdivisions shall be one hundred fifty (150) feet.

9.4.2. Flag lots and other odd shape lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited in Two-Acre Lot Size subdivisions.

9.4.3. Flexible Lot Size Subdivisions – The applicant may propose, and the Planning Board may approve, a subdivision design in which the lots are smaller and have less road frontage than required for a Two-Acre Lot Size subdivision and in which at least half of the parcel is preserved as open space in accordance with the provisions of this Section.

9.4.3.1 Purpose – The purposes of the Flexible Lot Size subdivision provisions are to: 1) provide the property owner or subdivider with flexibility in the design and layout of a subdivision recognizing the development constraints for Two-Acre Lot Size subdivisions in many areas of the community, 2) allow for the creation of developments with a stronger neighborhood character, and 3) provide for the permanent protection of protected and common open space that is consistent with the Town's long range goals for preserving the community's natural, cultural and scenic resources.

9.4.3.2 Maximum Number of Lots – The intention in allowing Flexible Lot Size subdivisions is that a property owner or subdivider can create approximately the same number of lots that they could in a Two-Acre Lot Size subdivision. The maximum number of lots allowed in a Flexible Lot Size subdivision shall be calculated based on the following formula:

The Total Area of the Parcel
Minus
Fifteen percent (15%) of the Total Area of the Parcel
Minus
Land Not Suitable for Development (see Section 9.5)
Equals
The Net Useable Area of the Parcel
Divided by
Eighty thousand (80,000) Square Feet per Unit/Lot
Equals
The Maximum Number of Lots/Units Allowed in a Flexible Lot Size Subdivision

If the applicant proposes to include workforce housing as part of the subdivision, the maximum number of lots allowed shall be adjusted according to the density bonuses for workforce housing set out in Section 11.18 of the Basic Land Use Ordinance.

9.4.3.3 Minimum Size of Lots -- To provide property owners and subdividers with flexibility in the design of a Flexible Lot Size subdivision, there is no minimum lot size requirement subject to the following limitations:

9.4.3.3.1 – Lots that have their primary road frontage on an existing public road must have a minimum lot area of forty thousand (40,000) square feet.

9.4.3.3.2 – For one-unit residential lots with less than twenty thousand (20,000) square feet of lot area, the applicant must demonstrate that the lot will meet the requirements of the State Minimum Lot Size law.

9.4.3.3.3 – For lots that will have more than one (1) dwelling unit or a nonresidential use, the applicant must demonstrate that the lot will meet the requirements of the State Minimum Lot Size law.

9.4.3.3.4 – No lot that is located entirely within the Shoreland Zone shall have less than required minimum lot area required by the Shoreland Zoning Ordinance. Lots that are located partially within the Shoreland Zone may be smaller than required by the

Shoreland Zoning Ordinance if the principal building and the on-site sewage disposal system are located outside of the Shoreland Zone.

9.4.3.4 Minimum Road Frontage – To encourage the creation of lots that do not front on existing public roads, lots in a Flexible Lot Size subdivision shall conform to the following minimum frontage requirements:

Lots that front on an existing public road	150 feet per unit
Lots that front on an existing private road	75 feet per unit
Lots that front on a new road within the subdivision	40 feet per unit

9.4.3.5 Lot Shape – To allow flexibility in the design of the subdivision in accordance with the process laid out in Section 8.3.1.3, there are no limitations on the shape of lots in a Flexible Lot Size subdivision as long as each lot contains a suitable development site of an appropriate size to accommodate the anticipated development. Flag lots and other irregularly-shaped lots are allowed as long as they are consistent with the overall utilization of the parcel based on the site inventory and analysis and conceptual subdivision plan.

9.4.3.6 Sewage Disposal – Sewage disposal may be provided by individual, shared, or common subsurface sewage disposal facilities. The components of the systems may be located on the lot which they serve or may be located off the lot including within the protected or common open space in accordance with Section 11.4 of the Basic Land Use Ordinance.

9.4.3.7 Perimeter Buffer – Whenever any portion of a lot in the Flexible Lot Size subdivision is located within twenty (20) feet of a parcel that is not part of the Flexible Lot Size subdivision, that portion of the lot shall be maintained as a vegetated buffer. No principal or accessory buildings, structural improvements (other than fences as part of an approved buffer), lawns, gardens, storage of personal items, or similar activities shall occur within this area. As part of the subdivision plan, the applicant shall provide details for how this buffer will be treated and maintained. If the area is currently wooded or heavily vegetated, this should be retained if possible. Where this area is not currently wooded, the applicant shall provide for the establishment of a vegetated buffer sufficient to provide visual relief to the abutting property. The Planning Board may waive or reduce this requirement to allow for utilities to cross the buffer or to retain scenic views.

9.4.3.8 Minimum Protected or Common Open Space – The concept of a Flexible Lot Size subdivision is to allow for smaller lots in return for a substantial portion of the parcel being set aside as open space. The minimum amount of land included in protected or common open space shall be determined by the following formula:

One hundred percent (100%) of the area of the parcel that is unsuitable for development (see Section 9.5)

Plus

Fifty percent (50%) of the area of the remaining acreage of the parcel (total area of the parcel minus the area unsuitable for development

9.4.3.9 Location of the Protected or Common Open Space – The protected or common open space shall be located in accordance with the site inventory and analysis. In determining which land should be included in the open space, the applicant shall be guided by the following priorities:

9.4.3.9.1 First Priority – Primary Conservation Areas – Most or all of the identified Primary Conservation Areas should be included in the protected or common open space.

9.4.3.9.2 Second Priority – Secondary Conservation Areas – After including the Primary Conservation Areas in the open space, the following Secondary Conservation Areas should be considered for inclusion in the protected or common open space in the following order:

(a) Land that has been used for traditional access to the water or public beaches.
(b) Land that will be used to provide new or expanded access to the water.
(c) Land within one hundred (100) feet of tidal waters or streams that drain to tidal waters.
(d) Land that is within two hundred fifty (250) feet of a significant vernal pool.
(e) Land that is adjacent to land that is owned by the Town, a land trust, formally organized conservation organization, or state agency or that is otherwise permanently protected as open space.
(f) Land which will allow for the continuation or connection of trails whether or not such a facility is proposed as part of the subdivision.
(g) Land that maintains the integrity of blocks of unfragmented habitat or that protects identified habitats and/or travel areas between habitat blocks.
(h) Land containing identified historic or archeological sites or significant cultural features such as stone walls and specimen trees.
(i) Land that is in current or planned agricultural or managed forestry use.
(j) Land that is in current or planned commercial fisheries use.
(k) Land that protects scenic views visible from public property or the views of abutting property owners or of dwellings to be built within the subdivision.
(l) Land that is located within a focus area identified in the Town's adopted Open Space Plan.

9.4.3.10 Use of Protected or Common Open Space

For purposes of this section, protected or common open space areas must comply with the following:

a. The common open spaces must be dedicated to the recreational amenity and environmental enhancement of the development, must protect natural resources, and must be recorded as such. For the purpose of these provisions, common open space means an area that:

1) is not encumbered in any way by a principal structure;

2) is not devoted to use as a roadway, road right-of-way, parking lot, sidewalk, or similar structural improvements;

3) is left in its natural or undisturbed state, except for low-intensity recreational facilities including the cutting of trails for non-motorized recreation, unless the land will be managed by an approved sustainable forestry plan signed by a Licensed Maine Forester, or for community gardens, or for continuance of currently existing agricultural use, or for components of subsurface sewage disposal or water supply systems;

4) is capable of being used and enjoyed for the purpose of informal and unstructured recreation and relaxation; and

5) is legally and practicably accessible to residents of lots in the development out of which the open space is taken unless the open space will be owned by a private party for agricultural or other natural resource use or such access will compromise the natural resource value of the open space.

b. The common open space shall be controlled by one (1) or more of the following methods:

1) common ownership by the owners of the units within the development with covenants or deed restrictions approved by the Planning Board establishing restrictions on the use of the open space and provisions for its permanent management; and/or

2) transfer, with permanent restrictions, to a land trust or other recognized conservation organization; and/or

3) ownership by a private party for agricultural or other natural resource use provided that permanent restrictions are in place to provide for its continued use for this purpose.

c. Any development proposed under this section shall specify the ownership, use, management, and entity responsible for maintenance of all common areas and facilities. When the open space will be protected through covenants or deed restrictions, those provisions must provide that the covenants or deed restrictions are enforceable by the owner of any lot in the subdivision, by the owner of any lot outside of the subdivision that abuts the common open space, or by the Town of Harpswell. The covenants, deed restrictions and/or conservation easements shall provide for the monitoring of compliance with the restrictions at least once every two (2) years. A report of the monitoring setting out the findings of the monitoring and any needed corrective action shall be submitted to the Conservation Commission. The Conservation Commission shall review the monitoring report and shall have the opportunity to conduct an on-site visit if necessary to verify the findings of the monitoring report. If the homeowners association or easement holder fails to conduct the required monitoring, the Conservation Commission may carry out the monitoring. If the Town takes action to monitor or enforce the covenants, deed restrictions, or conservation easements, the cost of such monitoring and/or enforcement shall be recoverable by the Town from the

homeowners association or easement holder. The Planning Board shall approve the arrangements for the ownership, control, use and maintenance of the common open space in accordance with the standards of subsections (a) and (b) above as part of the approval of a final subdivision plan. No changes in the use or management of common open space shall be made without Planning Board approval and a note shall be provided on the approved subdivision plan to this effect.

d. Any common open space or facility not retained by a private owner shall be maintained by a developer or homeowners' association unless and until it is transferred in its entirety to a recognized conservation organization and until the transfer actually is completed. The formation and incorporation by the developer of a homeowners' association, if one is proposed, shall be accomplished prior to final subdivision approval.

9.5. Land Not Suitable for Development

The following land shall not be included in the calculation of the area of a lot for the purposes of meeting minimum lot size or other density or dimensional requirements:

9.5.1. Land below the maximum high water line of a great pond, stream, or tributary stream, stream, or pond;

9.5.2. Land below the HAT of a coastal wetland,

9.5.3. Land below the upland edge of a freshwater wetland with a contiguous area of more than twenty thousand (20,000) square feet,

9.5.4. Land which is part of a road, or a transportation right-of-way, or easement serving more than two (2) lots, except rights-of-way or easements used exclusively for pedestrian access, and

9.5.5. Land created by the filling or draining of a great pond, stream, tributary stream, or coastal or freshwater wetland.

***Citizen's Note**: The filling or draining of a water body, tributary stream, or wetland will usually require State and Federal approval.*

9.6. Required Improvements

The following improvements are required for all subdivisions:

9.6.1. Lot Markers

9.6.1.1. Permanent markers must be set at all road intersections and points of curvature, points of tangency, and intersections.

9.6.1.2. Permanent markers must be set at all corners and angle points of the subdivision boundaries.

9.6.2. Water Supply

9.6.2.1. The proposed subdivision plan must have sufficient water available for the reasonably foreseeable needs of the development.

9.6.2.2. If a central water supply system is provided by the applicant, the location and protection of the source, and design, construction, and operation of the system must conform to the standards of the Maine Rules Relating to Drinking Water (C.M.R. 10-144 231). The Code Enforcement Office shall be notified by the Planning Board of the location of a proposed community water supply for reference in future amendment of the Comprehensive Plan.

9.6.2.3. Lot design shall permit the placement of wells and subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.

9.6.2.4. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

9.6.2.5. Water supplies shall meet the primary Drinking Water Standards contained in the Maine Rules Relating to Drinking Water. If existing water quality 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 Plan to be recorded in the Cumberland County Registry of Deeds.

9.6.3. Sewage Disposal

9.6.3.1. The subsurface disposal must be in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules and to minimize adverse impacts on ground water quality. In addition, the Planning Board may request the applicant to pay for a second assessment of the site if the site has been identified as being marginally acceptable according to the Maine State Plumbing Code.

9.6.3.2. Any septic system must be placed at least one hundred (100) feet from any existing well whether the well is on the property or on contiguous property.

9.6.3.3. If common or cluster septic systems are used, a second site suitable for subsurface disposal must be available.

9.6.4. Fire Protection

Provisions must be made for adequate emergency vehicle access to the subdivision and for water supply for fire protection.

9.7. Erosion and Sedimentation Control

9.7.1. The proposed subdivision plan will not cause soil erosion or a reduction in the land's capacity to hold waters such that a dangerous or unhealthy condition results.

9.7.2. The following measures relating to soil conservation and erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance:

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

9.7.2.2. Erosion of soil and sedimentation of watercourses and water bodies shall be controlled by employing the following best management techniques:

9.7.2.2.1. Stripping of vegetation, soil removal, and regrading or other development must be done in such a way to control erosion;

9.7.2.2.2. Development must preserve outstanding natural features and ensure conformity with topography so as to create the least erosion;

9.7.2.2.3. The rate of surface runoff from the proposed development shall not be increased;

9.7.2.2.4. Whenever possible, natural vegetation shall be retained;

9.7.2.2.5. Disturbed soils must be stabilized as quickly as possible;

9.7.2.2.6. Permanent vegetation and mechanical erosion control measures, in accordance with the standards of the most recent edition of Environmental Quality Handbook as published by the Maine Soil and Water Conservation Commission, must be installed as soon as possible; and

9.7.2.2.7. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of discharge at the property line.

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

9.8. Utilities

9.8.1. Any utility installations remaining above ground must be located, where possible, in existing public ways and existing service corridors, and so as to avoid crossing open areas and scenic views as identified in the Comprehensive Plan.

9.8.2. The size and proposed location of utilities must be shown on the plans.

9.9. Construction in Flood Hazard Areas

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan must be in conformance with the Harpswell Floodplain Management Ordinance.

9.10. Impact on Wetlands

Subdivision plans shall be designed to minimize impact on wetlands.

Septic systems and structures must be set back at least two hundred fifty (250) feet from the upland edge of moderate or high value wetlands, at least seventy-five (75) feet from a water body, tributary stream, or the upland edge of a coastal or freshwater wetland; and at least twenty-five (25) feet from the upland edge of a forested wetland.

If the Local Plumbing Inspector, upon review of written evidence submitted by a soil scientist licensed to practice in Maine, determines that the only practical alternative for a specific subsurface wastewater disposal system is within the seventy-five (75) foot setback of the upland edge of a coastal or freshwater wetland, or within the twenty-five (25) foot setback from the upland edge of a forested wetland, the Planning Board may waive the setback requirement for that specific subsurface wastewater disposal system, and set appropriate conditions on the system as recommended by the Local Plumbing Inspector, provided that the waiver does not have the effect of nullifying the purpose of this Ordinance or violating the State of Maine Subsurface Waste Water Disposal Rules. When the Planning Board grants a waiver pursuant to this paragraph, the final plan to be recorded at the Registry of Deeds shall indicate the waiver granted and the date on which it was granted.

Except as specifically approved by the Maine Department of Environmental Protection or United States Army Corps of Engineers, roads shall be located to avoid crossing a wetland, tributary stream, or water body and must be set back at least two hundred fifty (250) feet from the upland edge of moderate or high value wetlands, at least seventy-five (75) feet from the upland edge of a coastal or freshwater wetland, and at least twenty-five (25) feet from the upland edge of a forested wetland.

Any cutting of vegetation or timber harvesting in a wetland area described in this Section or within the setbacks outlined above shall be conducted in accordance with Section 11.15 of the Town's Basic Land Use Ordinance or, where applicable, Section 15.14 of the Shoreland Zoning Ordinance.

***Citizen's Note**: The filling or draining of a water body, tributary stream, wetland, or pond will usually require State and Federal approval.*

9.11. Impact on Groundwater

9.11.1. The proposed subdivision plan will not alone, or in conjunction with abutters or other existing activities, adversely affect the quality or quantity of groundwater.

9.11.2. A subdivision plan must not increase the nitrate concentration in the groundwater at the boundary to more than ten (10) milligrams per liter.

9.11.3. Subsurface wastewater disposal systems and drinking water wells 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 must be included as a note on the final plan.

9.11.4. The proposed subdivision plan shall use on-site techniques to assure that the amount of aquifer recharge post-development is no less than the amount before development.

9.11.5. Groundwater withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.

9.11.6. Water conservation devices shall be used by the applicant to minimize negative groundwater impacts of the development.

9.12. Stormwater Management

9.12.1. The Planning Board shall consider the impact of the proposed subdivision on erosion, drainage, and runoff on the development itself and on adjacent properties and water bodies. In assessing impacts, the Planning Board shall consider site visits, existing drainage problems, topographical information, and, if deemed necessary, a runoff analysis based on a twenty-five (25) year storm as submitted by the applicant. Subdivisions of five (5) or more lots must be reviewed and endorsed by an independent consultant hired by the Town.

9.12.2. Adequate provisions must be made for disposal of all storm-water generated within the subdivision and any drained groundwater through a management system of swales, culverts, underdrains, and storm drains. Stormwater shall be treated to remove oil, grease, sediment, and other contaminants prior to discharge into a water body or tributary stream.

9.12.3. The stormwater management system must be designed to conduct stormwater flows to existing water courses or storm drains, except where retention basins are designed or groundwater recharge is desirable. The stormwater management system shall make provisions so as to not have adverse effect on neighboring properties, downstream water quality, soil erosion, or the public drainage system.

9.12.3.1. The minimum size for any storm drainage pipe shall be twelve (12) inches. All downstream pipes must be the same size or larger. Pipe must be embedded in a fine granular material.

9.12.3.2. Catch basins must be installed where necessary.

9.12.3.3. Outlets must be stabilized against soil erosion.

9.12.4. Stormwater runoff systems must infiltrate, detain, or retain water falling on the site such that the rate of flow from the site does not exceed that which would occur in the undeveloped state.

9.12.5. Where a subdivision is traversed by a stream, tributary stream, or surface water drainage way, the surface water runoff to be created by the subdivision shall be controlled. Easements for existing or proposed drainage rights-of-way shall be provided with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. The easements or rights-of-way shall be at least thirty (30) feet wide and substantially conform with the lines of existing and proposed drainage ways.

9.13. Offshore Islands

Subdivisions proposed for offshore islands will require deeded mainland support facilities including private landing and at least two (2) parking spaces per lot.

9.14. Aesthetic, Cultural, and Natural Values

The proposed subdivision plan will preserve the scenic and 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.

The developer may offer the Town, Land Trust, or appropriate conservation group the title or easement to existing and future points of public access to the shoreline and open spaces valuable for aesthetic, historic, or wildlife habitat or used for traditional recreation.

The Planning Board may require the inclusion of a note on the subdivision plan and deed restriction on the affected lots restricting the clearing of trees to those areas designated on the subdivision plan.

9.14.1. All subdivision plans must conform with the wildlife management guidelines developed by the Maine Department of Inland Fisheries and Wildlife (MIFW) for the protection of significant wildlife habitat. Any clearing of vegetation that takes place within seventy-five (75) feet of the upland edge of a wetland designated as high or moderate value for waterfowl habitat by the MIFW or in the Comprehensive Plan shall be limited to that which is necessary for allowed uses. This restriction shall appear as a note on the subdivision plan and as a deed restriction on the affected lots.

9.14.2. All subdivisions must be designed so as not adversely to impact rare natural areas as identified by the Natural Heritage Data Base in the Department of Economic and Community Development.

9.14.3. All subdivisions must be designed so that the completed development shall protect shellfish habitats and other marine environments.

9.14.4. All subdivisions shall be designed to protect historic, archaeological, scenic, or other critical resources known to exist in the proposed subdivision.

9.14.5. All subdivisions must be designed to ensure that important scenic areas and open spaces, as identified in the Comprehensive Plan for Harpswell, are maintained.

9.14.6. If the land proposed for subdivision is located on Route 24, Route 123, Cundy's Harbor Road, or Mountain Road and at the time of application is forested, a wooded buffer strip no less than twenty-five (25) feet in width shall be left along the road right-of-way. If at the time of application, the land is not wooded, a buffer strip no less than twenty-five (25) feet in width shall be left along the road right-of-way.

9.15. Traffic

9.15.1. The proposed subdivision plan will not cause unreasonable highway or public road congestion or unsafe conditions for vehicular traffic and pedestrians.

9.15.2. General Requirements

9.15.2.1. Proposed subdivisions must provide for safe access to and from public and private roads. Safe access shall be assured by providing adequate access points with respect to sight distances, intersections, schools, and other traffic generators. An entrance permit will be required from the Maine Department of Transportation. The road serving the subdivision shall be adequate to carry the anticipated traffic.

9.15.2.2. Provisions must be made for providing and maintaining convenient and safe emergency vehicle access to all structures at all times.

9.15.2.3. The proposed subdivision plan must provide for safe and convenient access for pedestrians within the subdivision and from the subdivision to surrounding development and open areas.

9.15.2.4. Upon receipt of the subdivision plan, the Planning Board may forward it to the Road Commissioner or to the Town's Consulting Engineer for review and comment.

9.15.3. Road Design and Construction Standards

9.15.3.1. The road design and construction standards contained in the Road Ordinance must be met by all roads within developments reviewed under this Ordinance, regardless of whether the road is intended to be public or private. If the applicant can provide clear and convincing evidence that an alternate road design is necessary to preserve community character and the resulting design will not create safety or maintenance problems for the Town, the Planning Board may waive the travel way width, shoulder width, or slope requirements of the Road Ordinance.

9.15.3.2. All roads must be platted along contour elevations which will result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.

9.15.3.3. The proposed road layout must be coordinated with the road system of the surrounding areas. All roads must provide for the continuation of or connection to existing roads in surrounding areas and provide means of ingress and egress for surrounding lots or parcels of land.

Where necessary, as determined by the Planning Board, to safeguard against hazards for traffic and pedestrians and/or to preserve the traffic bearing capacity of existing roads, provisions shall be made for turning lanes, guard rails, traffic directional islands, frontage roads, shared driveways, sidewalks, bicycle ways, and traffic controls on existing roads. The applicant will pay for any safety improvement required on existing roads as a result of the subdivision plan.

9.16. Homeowners/Landowners Association

If commonly owned property is proposed, the subdivision plan shall have a Homeowners/Landowners Association which, at a minimum, shall provide for the following:

9.16.1. Covenants for mandatory membership in the Homeowners/Landowners association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.

9.16.2. Articles of incorporation of the proposed Homeowners/Landowners association as a not-for-profit corporation.

9.16.3. By-laws of the proposed Homeowners/Landowners association specifying the responsibilities and authority of the association, the operating procedures of the association, and providing for proper capitalization of the association to cover the costs of major repairs, maintenance, and replacement of common facilities.

9.16.4. Where a proposed subdivision would use an existing private road(s) for access, provision requiring the subdivision developer and/or lot owners to contribute fairly to the cost of maintenance, repair, and replacement of such road(s).

9.16.5. Where an alternate subdivision design is proposed, provision requiring the subdivision developer and/or lot owners to contribute fairly to the cost of maintenance, repair, and replacement of the common septic system(s), well(s), and/or open space.

These provisions must satisfy the Planning Board that the homeowners/landowners association has the responsibility of maintaining the common property or facilities, has the power to levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair, and replacement of common property and facilities and tax assessments, has the power to place a lien on the property of members who fail to pay dues or assessments, and that the applicant shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

The developer shall maintain control of common open space and facilities and be responsible for their maintenance until at least fifty-one percent (51%) of the development's lots or units have been completed and sold, with evidence of such completion and sales submitted to and approved by the Planning Board.

Covenants for mandatory membership in the association shall be approved by the Planning Board and included in the deed for each lot or unit or incorporated by reference from a master document recorded in the Cumberland County Registry of Deeds.

9.17. Community Docks

For any subdivision located in whole or in part the Shoreland Zone, no new wharf, pier, dock and/or float shall be constructed to service only one lot if the upland area on which the wharf, pier, dock and/or float is proposed to be located may reasonably be arranged to service more than one lot, in which case the wharf, pier, dock and/or float may only be improved and used as a community dock for as many of the lots in the subdivision as it can reasonably accommodate. Community docks shall be reviewed and approved by the Planning Board in accordance with the terms of the Shoreland Zoning Ordinance.

9.18. Workforce Housing Any subdivision that is to include Workforce Housing Units or Lots shall comply with Section 11.18, Workforce Housing, of the Town's Basic Land Use Ordinance, as may be amended from time to time.

9.19. Spaghetti Lots are 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 shall have a lot depth to shore frontage ratio greater than 5 to 1.

9.20. 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.

SECTION 10. PERFORMANCE GUARANTEE

10.1. Requirement

Prior to approval of the subdivision plan, the Planning Board shall require documentation that the applicant has financial capacity to carry out the proposed project. A performance guarantee, letter of credit or similar agreement with the Planning Board may be required for the following, whether on-site or off-site:

10.1.1. The construction of roads and/or buffer improvements;

10.1.2. The construction of any water supply or sewage system other than individual on-site facilities;

10.1.3. The construction of drainage systems, erosion control measures, or water supply systems for fire protection; and

10.1.4. The construction of other improvements, such as buffer strips, intended to minimize adverse effects on the public or on abutting properties.

10.2. Form of Guarantee

The performance guarantee may be tendered as a certified check payable to the Town, a savings account passbook in the name of the Town, an irrevocable letter of credit from a financial institution acceptable to the Selectmen, or a faithful performance bond running to the Town and issued by a surety company licensed to do business in the State of Maine and acceptable to the Selectmen.

10.3. Amount of Guarantee

The amount of the performance guarantee is one hundred twenty-five percent (125%) of the cost of the requirements of Subsection 10.1. All guarantees are conditioned upon the completion of all such improvements within two (2) years from the date of approval or another agreed upon date based on Section 8.12 of this Ordinance.

10.4. Release of Guarantee

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the CEO or the Town's consultant and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

10.5. Default

If, upon inspection, the CEO or the Town's consultant finds that any of the required improvements have not been constructed in accordance with the approved plan and specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen, the Planning Board, and the applicant. The performance guarantee shall then remain in place until the provisions of Subsection 10.4 are met.

If the requirements of Subsection 10.4 are not met within a reasonable period of time after such notice, the Selectmen may utilize the funds from the guarantee to cause the completion of the improvements or to restore the site to its pre-development condition.

SECTION 11. PUBLIC ACCEPTANCE OF ROADS, EASEMENTS, OR OPEN SPACE

The approval by the Planning Board of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any road, easement, or open space shown on such plan. Such acceptance may only be accomplished by the voters of the Town at Town Meeting.

SECTION 12. ENFORCEMENT

12.1. No building permit shall be issued under the Town's Ordinance, no building or site disturbance shall commence, and no plan of a division or development of land within the Town which constitutes a subdivision shall commence until the plan is recorded in the Cumberland County Registry of Deeds.

12.2. No person, firm, corporation, or other legal entity may sell, lease, develop, build upon, occupy any building or structure, or convey for consideration, offer or agree to sell, lease, develop, build upon, occupy any building or structure, or convey for consideration any land in a subdivision which has not been approved by the Planning Board and recorded in the Cumberland County Registry of Deeds, nor may any person, firm, corporation, or other legal entity convey any land in any approved subdivision plan unless the required permanent markers are set.

12.3. No person, firm, corporation, or other legal entity may convey, offer, or agree to convey any land in an approved subdivision which is not shown on the approved plan as a separate lot.

12.4. Development of a subdivision without Planning Board approval is a violation of this Ordinance and State law.

12.5. Violations of this Ordinance are punishable in accordance with the 30-A M.R.S.A. §4452, as may be amended from time to time.

SECTION 13. EXPIRATION OF SUBDIVISION APPROVAL

Approval of a subdivision plan shall lapse if the applicant, or his or her successor, has not substantially started construction of approved improvements within one (1) year or within such time period as may be agreed upon in writing by the Planning Board and the applicant. One (1), one (1) year extension may be granted by the Planning Board. Three (3) months prior to the expiration date for substantial start of construction, the CEO shall notify the applicant by certified mail of the date of expiration.

SECTION 14. APPEALS

Any aggrieved party who participated in the proceedings before the Planning Board may take an appeal to the Board of Appeals within forty-five (45) days from the date of any decision of the Planning Board.

SECTION 15. INTERPRETATION, VALIDITY, CONFLICT OF ORDINANCES, AND EFFECTIVE DATE

15.1. Editorial Notes

Throughout this Ordinance there are editorial "citizen's notes" which are reproduced in italicized print. These notes shall not be considered part of this Ordinance as adopted by the Town, but shall only be considered guides to the intent of Ordinance provisions and their proper interpretation.

15.2. Validity, Conflict of Ordinances, and Effective Date

Should any section or provision of this Ordinance for any reason be held void and invalid, it shall not affect the validity of any other section or provision.