SWAN'S ISLAND, MAINE

SUBDIVISION ORDINANCE

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SECTION I. PURPOSES

The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community.

To this end, in approving subdivisions within the Town of Swan's Island, Maine, the Planning Board shall consider the following criteria and before granting approval shall affirmatively determine that the proposed subdivision:

1. Will not result in undue water or air pollution. In making this determination it shall at least consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources rules and regulations.

2. Has sufficient water available for the reasonably foreseeable needs of the subdivision.

3. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

4. Will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

5. Will not cause unreasonable highway, public road, or other public congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.

6. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on the ability of a municipality to dispose of sewage if municipal services are to be utilized.

7. Municipal solid waste. 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. 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, rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

9. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan. In making this determination, the municipal review authority may interpret these ordinances and plans.

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

11. Whenever situated, in whole or in part within the watershed of any pond or, within 250 feet of any wetland, great pond, lake, river or tidal waters as defined in Title 38, Chapter 3, subchapter I, Article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

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

14. Freshwater wetlands. All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local Soil and Water Conservation District.

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this Section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, subsection 9.

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

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

SECTION II. AUTHORITY AND ADMINISTRATION

2.1 Authority

These standards have been prepared in accordance with the provisions of Title 30-A, M.R.S.A., § 4403 and the home rule authority of municipalities found in Article VIII, Part 2, Section I of the Maine Constitution and in Title 30-A M.R.S.A. § 3001.

2.2 Administration

A. The Planning Board of the Town of Swans Island, hereinafter called the Board, shall administer these regulations.

B. The provisions of these regulations shall pertain to all proposed subdivisions as herein defined within the boundaries of the Town of Swan's Island.

C. The Planning Board may, from time to time, approve the use of forms for applications and submissions for approval which the applicant shall use in making application to the Board.

2.3 Amendments

These regulations may be amended by the legislative body of the Town of Swan's Island.

SECTION III. DEFINITIONS

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

Accessory Structure - A subordinate structure or use, but related to that of the principal structure/use of the building, or use of the land.

Cluster Subdivision – A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision for permanent open space.

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 of the residence 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 these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Comprehensive Plan - Any part or element of the overall plan or policy for development of the municipality as defined in Title 30 M.R.S.A.

Contiguous Lots - Lots which adjoin at any line, a point on a line, or are separated at any point by a body of water less than fifteen (15) feet wide.

Contractors Liability - Any contractor, subdivider or his agent involved in any activity regulated by the provisions of this Ordinance shall be held liable for violating this Ordinance if the necessary permits for the said activity have not been obtained.

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.

Developed Area - Any are on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets or roads.

Driveway - A driveway is a private traveled way serving two lots or less.

Dwelling Structure - A single building containing one or more dwelling units.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters through sale or lease for only one (1) family or person, including single-family and multifamily housing, condominiums, apartments and time share units.

Family - One or more persons occupying a dwelling unit and living as a single housekeeping unit.

Final Plan - The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Flood Plain Boundary – . The contour line defined by the 100 Year Flood elevation as shown in Tidal Flood Profile No. 12 of the U.S. Army Corps of Engineers 1988 New England Coastline Tidal Flood Survey

100-Year Flood - The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

Freshwater Wetland - "Freshwater wetland" means freshwater swamps, marshes, bogs and similar areas which are:

A. Of 10 or more continuous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any stream or brook, such that, in a natural state, the combined surface area is in excess of 10 acres. Also includes areas that appear on the official Shoreland Zoning map even if those areas are under 10 acres.

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

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

Great Pond - Any inland body of water which in a natural state has a surface area in excess of ten acres.

Lodging Unit - Any structure used in whole or in part in which lodging is offered for compensation to three (3) or more families with or without meals, including, but not limited to hotels and motels.

Marine-Related Activities- Includes, but not limited to, commercial and recreational activities associated with maintenance, storage, building and supply of boats or the landing, holding, buying, selling and shipment of fish and shellfish, but may not include recreational boat storage buildings.

Marine-Related Structure – Those uses and structures that require, for their primary purpose and operational necessity, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters. Marine-related structures may be used primarily for activities associated with the maintenance, storage, building, and supply of boats; or the landing holding, buying, selling, and shipment of fish and shellfish, but may not include recreational boat storage buildings. A marine-related structure shall be no larger than necessary to carry on the activity(s) intended, and

shall be consistent with existing conditions, uses, and the character of the area. Any change in use of a marine –related structure requires approval of the Planning Board. This definition shall not be construed to allow dwelling units within 75 feet of the shoreline boundary.

Multi-Family Development -A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Multi-Family Dwelling Unit - A building or portion thereof used for residential occupancy by three or more families living independently.

Open Space - Reserved areas, recreational areas, or areas containing natural habitats, water resource areas, scenic or historic features that are part of the subdivision plan and are areas jointly owned by the subdivision or accepted by the Municipality.

Official Submittal Date - The date upon which a complete application has been submitted to the Board.

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

Planning Board - The Planning Board of the Town of Swans Island, created under Title 30 M.R.S.A., 4952 (or 1917).

Principal structure - Any building or structure in which the main use of the premises takes place.

Preliminary Subdivision Plan - The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan - The original of the Final Plan which is recorded at the Registry of Deeds.

Resubdivision - Any change in the plan of an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Road - A vehicular way over 500 feet in length or a vehicular way serving more than two principal structures or more than two lots upon which dwellings could be built.

Shore Frontage - The length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high water elevation.

Shoreline Boundary - The line where contiguous terrestrial vegetation and soil ends; then intermittent aquatic vegetation and/or shore material (such as ledge, rock, stones, pebbles, or sand) begins.

Structure - Structure shall mean anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on or in the ground, including but not limited to: buildings, mobile homes, radio and television sending and receiving equipment, walls, billboards, signs, piers, floats; anything built for the support, shelter, or enclosure of person, animals, goods, or property of any kind.

Subdivision - The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except when a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land 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.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. 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.

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

Upland Edge - That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominately aquatic and predominately terrestrial land.

Water Body - Any great pond, stream or tidal area.

SECTION IV. PREAPPLICATION

4.1 Procedure

The subdivision permitting procedure may include up to three stages: the preapplication, preliminary plan and final plan.

A. Applicant presentation and submission of sketch plans.

B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

C. Scheduling of on-site inspection.

4.2 Submission

The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. The Sketch Plan shall be accompanied by a copy of the U.S.G.S topographic map of the area showing the outline of the proposed subdivision , as well as the tax map. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner.

4.3 Contour Interval and On-Site Inspection

Within thirty days plus the number of days until the next regular Board meeting, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, and hold an onsite inspection of the property. The applicant shall place "flagging" at the centerline of any proposed roads and lot corners prior to the on site inspection.

4.4 Rights Not Vested

The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., 302.

4.5 Ownership

A copy of the deed or binding Purchase and Sales Agreement showing ownership of the proposed subdivision shall be submitted.

4.6 Establishment of File

Following the preapplication meeting the Board shall establish a file for the proposed subdivision.

SECTION V. PRELIMINARY PLAN FOR A SUBDIVISION

5.1 Procedure

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of Preliminary Plan at least ten (10) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan plus any recommendations made by the Board.

B. All applications for Preliminary Plan approval shall be accompanied by a fee of $100.00 per lot or dwelling unit, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.

D. The subdivider shall certify to the Board that all owners of abutting property have been notified that an application for subdivision approval has been submitted to the Board.

E. Within thirty days of receipt of Preliminary Plan application form and fee plus the number of days until the next regular Board meeting, the Board shall notify the applicant in writing, if the application is complete, or what specific additional materials are required for a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

F. The Board shall determine whether to hold a public hearing on the Preliminary application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days after determining it has received a complete application, and shall post notice of the date, time, and place of the hearing in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

G. The board shall, within thirty days of a public hearing, or within sixty days plus the number of days until the next regular Board meeting, after determining it has received a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The

Board shall specify in writing its findings of fact and reasons for any conditions or denial.

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

1. The specific changes which it will require on the Final Plan;

2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and

3. The amount of improvement or the amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.

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

5.2 Submissions

A. Application Form.

B. Location Map: The Preliminary Plan shall be accompanied by a Location Map drawn at a scale 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 subdivisions in the proximity of the proposed subdivision.

2. Locations and names of existing and proposed streets or roads.

3. Boundaries and designations of zoning districts.

4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary Plan: The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 x 11 or 11 x 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus lot numbers.

2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of the tract shall be located on the ground and marked by monument. The plan shall indicate the type of monument set or found at each lot corner.

3. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of way, or other encumbrances currently affecting the property.

4. A copy of any covenants or deed restriction intended to cover all or part of the lots in the subdivision, including road maintenance and snow removal agreements.

5. The location of the floodplain boundary shall be marked.

6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.

7. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, shoreline boundaries, and other essential existing physical features.

8. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analysis, prepared by

a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

9. Indication of the type of water system(s) to be used in the subdivision.

10. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.

11. The names and addresses of owners of record of adjacent property, including any property directly across an existing road from the subdivision.

12. The location of any zoning boundaries affecting the subdivision.

13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

14 . The location, names, and present widths of existing and proposed streets, roads , highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

15. The proposed lot lines with dimensions and lot areas.

16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

17. The location of any open space to be preserved and a description of proposed ownership, improvements and management.

18. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District may be required by the Planning Board.

19. A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a registered soil scientist indicating the suitability of soil conditions for those uses.

20. Wetlands shall be identified on the survey, regardless of size. Location of all streams and brooks within or adjacent to the proposed subdivision

SECTION VI. FINAL PLAN FOR A SUBDIVISION

6.1 Procedure

A. The subdivider shall, within six months after the preliminary approval of the Preliminary Plan, file with the Planning Board, at least 10 days prior to a scheduled meeting of the board, an application for approval of the Final Subdivision Plan in the form described herein. If the Final Plan is not submitted within six months after the approval of the Preliminary Plan, the Planning Board shall require resubmission of the Preliminary Plan

B. The applicant may request an extension in writing prior to the expiration of the filing period.

C. Within thirty (30) days plus the number of days until the next regular Board meeting of receipt of a Final Plan application form and fee, the Board shall notify the applicant in writing, if the application is complete, or what additional submissions are required for a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

E. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the Final Plan application.

F. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate.

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Alteration of Stream and Rivers Act, or if a Wastewater Discharge License is needed.

2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.

3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized (a system that uses more than 2000 G.P.D.).

G. A public hearing may be held by the Planning Board within thirty days after the issuance of a receipt for the submittal of a complete application. Notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

H. Before the Planning Board grants approval of the Final Plan, the subdivider shall, in an amount set by the Planning Board, either file with the Municipal Treasurer a certified check to cover the full cost of the required improvements, or the subdivider shall file with the Municipal Treasurer a performance bond to cover the cost of the required improvements. Any such bond shall be satisfactory to the Municipal Officers and municipal attorney as to form, sufficiency, manner of execution and surety. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) shall be set forth in the bond time within which require improvements must be completed. The certified check or bond may include an amount required for recreation land improvements as specified.

I. Within thirty days from the public hearing or within sixty days of receiving a complete application, 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 relative to the criteria for approval contained in Title 30- A.M.R.S.A. Section 4404 and the standards of these regulations. If the Board finds that all the criteria of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute and the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensue all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

6.2 Submissions

The Final Plan shall consist of one or more maps or drawings to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch. Plans shall be no larger than 24 x 36 inches in size, and shall have a margin of two 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 thereon for endorsement by the Board. Two reproducible, stable based transparent

originals, one to be recorded at the Registry of Deeds, then other to be filed at the Municipal Offices, and three copies of the plan submitted.

The subdivider may, instead, submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 1/2 x 11 inches, or 11 x 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information.

1. Proposed name of the subdivision and the name of the municipality in which it is located, the tax map and lot numbers.

2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corner of the tract shall be located on the ground and marked by monument. The plan shall indicate the type of monument set or found at each lot corner.

3. The number of acres within the proposed subdivision, location of property lines, existing shoreline and flood plain boundary lines, or wetland boundary lines, existing buildings, watercourses, and other essential existing physical features.

4. Indication of the type of sewage disposal to be used in the subdivision.

5. Indication of the type of water supply system(s) to be used in the subdivision.

6. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and address of the record owner, subdivider, and individual or company who prepared the plan.

7. The location of any zoning boundaries affecting the subdivision.

8. The location and size of existing and proposed sewers, culverts, and drainage ways on or adjacent to the property to be subdivided.

9. The location, names, and present widths 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. The original reproducible plan shall be embossed with the seal of the registered land surveyor and be signed that individual.

10. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the Plan, and open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed street and or open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

11. A list of the construction items with estimates and evidence that the applicant has financial commitments and resources to cover these costs will be completed by the developer prior to the sale of lots.

6.3 Final Approval and Filing

A. No plan shall be approved by the Planning Board as long as the applicant is in violation of the provisions of a previously approved Plan within the Municipality.

B. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. § 4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. The approved Final Plan will not be considered in effect until said Plan is filed with the Registry of Deeds and a certified copy received by the Planning Board.

C. If any aspect of the Board approval is conditional, the specific conditions shall be stated on the Final Plan prior to signing by the Board.

D. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan.

E. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 7.1.C. The Board shall make findings that the revised plan meets the criteria of Title 30-A, M.R.S.A. § 4404, and the standards of these regulations. In the event that 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.

F. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground or other recreational area shall have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality 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 Municipal Officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

SECTION VII. REVISION TO APPROVED PLANS

7.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least 10 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modification of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

7.2 Submissions.

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that 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.

7.3 Scope of Review

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

SECTION VIII. ENFORCEMENT

8.1 Inspection of Required Improvements

A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to assure that all municipal specifications and requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider and builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official 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 Town. For major modifications, such as relocation of rights-of-way, property boundaries, etc., the subdivider shall obtain permission in accordance with Section VII to modify the plans from the Board.

D. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered land surveyor, stating that all monumentation shown on the plan has been installed.

E. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

F. The subdivider or agent shall be required to maintain all improvements.

G. The subdivider or agent shall provide for snow removal and sanding for residences in use and to ensure public safety.

8.2 Violations and Enforcement

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.

B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds. A recorded copy of the subdivision, stamped by the Registry of Deeds, shall be returned to the Board within 30 days after being registered.

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

D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than $100.00 for each such conveyance, offering or agreement. The Attorney General, the municipality, the Planning Board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this Section and if a violation is found by the court, the municipality, municipal Planning Board, or the appropriate municipal officers shall be allowed attorney fees. Each day in which a violation is proven to exist shall constitute a separate violation under this Section.

E. 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.

F. 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 Final

Plan approved as provided in these regulations and recorded in the Registry of Deeds.

G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with these regulations 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 these regulations.

H. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:

1. A granite monument;

2. A concrete monument;

3. An iron pin; or

4. A drill hole in ledge.

SECTION IX. GENERAL STANDARDS

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

9.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent State and local codes and ordinances.

9.2 Creation and Retention of Open Spaces - including Reserved Areas, Recreational Areas, Water Resource Areas Habitats and areas containing Scenic, Natural or Historic Features.

A. The Open Space may be retained and maintained by the subdivider or jointly owned by the subdivision. Those areas identified in the Comprehensive Plan as having significant historical, scenic, natural, habitat, water resource areas, or public access features may be dedicated to the Municipality as a condition of approval.

The Town may accept any land the subdivider may offer to the Town as a gift if such land is acceptable and does not violate any other section of this ordinance.

B. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no other major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

C. The Board may require the preservation of scenic, historic or environmentally significant areas as delineated in the Comprehensive Plan.

D. Where the proposed subdivision is located on a lake, pond, wetland, stream or shoreline, a portion of the waterfront area, when feasible, shall be included in the reserved land.

9.3.1 Land Not Suitable for Development.

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law.

A. Land which is situated below the normal high water mark of any water body.

B. Land which is part of a right-of-way, or easement, including utility easements.

C. Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, wetland, or tidal waters, a proposed subdivision shall conform to the Municipal Shoreland Zoning Ordinance, or any other local land use ordinances.

9.4 Lots

A. All lots shall be a minimum of two (2) acres in size, not including rights-of-way, roads, easements, or land not in the same ownership, or below the shoreline boundary, except those lots situated within the Fishery District only, and use for marine-related activities shall have no minimum lot size.

B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated.

C. A lot abutting a road shall have a minimum frontage of 200 feet, measured in a straight line between the points of intersection of the side lot lines with the abutting road.

D. A lot abutting a pond, stream, or tidal water shall have a minimum shore frontage of 200 feet, measured in a straight line between the points of intersection of the side lot lines with the shoreline boundary or the upland edge of a wetland.

E. Each lot shall contain within its boundaries a rectangle 200x 300 feet, except those lots situated within the Fishery District only, and use for marine-related activities

F. Dimensional Requirements - The placement of principal and accessory structures on all lots shall meet or exceed the following minimum requirements:

1. Seventy-five (75) foot setback from the shoreline boundary or upland edge of any pond or salt water body;

2. Sixty (60) foot setback from the center line of the traveled way of all roads open to the public;

3. Ten (10) foot setback from the center line of any utility right-of-way;

4. Thirty (30) foot setback from all property lines.

Provisions one (1) and two (2) shall not apply to marine related structures which require direct access to the water as an operational necessity. Provision four (4) shall not apply to marine related structures in the Fishery District.

G. Where a tract is subdivided into lots substantially larger than the minimum size required herein, the Board may require that street and lot be laid out so as to permit future subdivision in accordance with the requirements contained in these standards.

H. No lot in a subdivision may be further subdivided without the approval of the Planning Board.

I. If more than one principal structure or dwelling structure is construct on a single parcel, all lot standards and dimensions requirements shall be met for each additional principal structure or dwelling structure.

J. A multi-family dwelling, lodging unit, condominium and cluster subdivision shall have a minimum lot size equal to two acres for the first family unit plus one-half acre for each additional individual family unit located thereon and shall fully comply with all setback requirements of these regulations and all provisions of the Municipal Shoreland Zoning Ordinance. Commercial activities serving or open to person(s) occupying the lodging unit, which are constructed or included as part of apartments, ~~boarding houses,~~ hotels, and motels shall require a minimum of one acre of additional land for each separate commercial activity.

9.5 Utilities

A. The type and location of electric, telephone, and other utilities shall be shown on the plan and approved by the Board.

B. The following are required improvements: monuments, utilities, roads, water drainage, except where the Board may waive or vary such improvements in accordance with the provisions of these regulations.

SECTION X. DESIGN STANDARDS

10.1 Monuments

A. Permanent monuments shall be set at all corners and angle points of the subdivision boundaries; and at all street intersections.

B. Monuments shall be concrete, stone, iron pipe or rebars located in the ground, or holes drilled in ledge or boulders and indicated on the Final Plan.

10.2 Off-Street Parking and Loading

A. Off-street parking, either by means of unenclosed suitable spaces each having a minimum area of 200 square feet plus necessary maneuvering space, or by enclosed garage space, shall be provided in the case of new construction, alterations and changes of use, according to the following minimum requirements:

1.
2. Single-family dwelling unit: Two (2) spaces for each dwelling unit.

3. Commercial establishments:

   a. Restaurant: One parking space for every (4) seats;

   b. Retail store: One space for each one hundred (100) square feet of retail floor space.
   c. All other commercial establishments: One space for each three hundred (300) square feet of floor area.

3. Churches and places of assembly: One space for each four (4) persons accommodated.

10.3 Roads

A. Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters.

B. Additionally, all roads constructed shall conform to the following standards:

1. Road crossings of watercourses shall be kept to the minimum number necessary.

2. Bottoms of culverts shall be installed at streambed elevation.

3. Culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

   (a). Culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

   (b). Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

   (c). On road sections having slopes greater than ten (10) percent, culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.

   (d). Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.

   (e). Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

4. All cut or filled banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible.

5. When road crossings of watercourses are to be used on unfrozen surface waters, bridges or culverts of adequate size and design shall be provided so as to support a Gross Vehicle Weight of 72,000 pounds.

6. The arrangement, character, extent, width, grade, and location of all roads shall be considered in their relation to existing or planned roads, to topographical conditions, to public convenience, to safety, and to the proposed uses to be served by such roads. Grades of roads shall conform as closely as possible to the original topography.

7. All roads within the subdivision shall be constructed according to design specifications herein as overseen by the municipal road commissioner, appointed engineer, or agent. All roads shall be capable of supporting at least a Gross Vehicle Weight of 72,000 pounds.

Height clearance	13'6"
Minimum width of right-of-way	66'
Minimum width of traveled way	20'
Maximum grade *	10%
Maximum grade within 50' of intersection	5%
Maximum angle of intersection	60°
Minimum width of shoulder	3'
Minimum slope of shoulder	20%
Minimum centerline radii on curves	100'
Minimum setback from shoreline boundary **	75'
Road base (bank run gravel)	18"
Gravel surface (1 1/2 screened gravel)	6'
Road crown (minimum)	1/4"/ft
Dead end roads without cul-de-sac/maximum length	500'
Cul-de-sac/radius to outside edge of traveled way	80'

*except for short segments of less than two hundred feet.

**See Swan's Island Shoreland Zoning Ordinance for a complete description of setbacks from water, and other special road requirements in the Shoreland Zone.

8. Road intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight

line between intersection roads shall be cleared of all obstructions above the level of 3 feet measured from the elevation of the centerline of the road. Earth moving may be required to achieve adequate viability.

9. All roads and driveways shall allow emergency vehicle access and shall have a vehicle turn out every 500 feet. Each turnout shall be a minimum of fifteen (15) feet wide, twenty-five (25) feet deep, and shall be approved by the Swan's Island Department of Public safety

10. The subdivider shall submit arrangements for the future maintenance of all roads within the subdivision for approval by the Planning Board. The approved arrangement shall be recorded as a part of the Final Plan.

11. Design specifications listed herein are minimum standards for roads in a subdivision.

C. Any request for Town maintenance of a subdivision road will not be considered unless;

1. All design specifications listed in 10.3 are met.

2. Additional specifications for secondary Maine Department of Transportation roads as required by the Town Road Commissioner and Selectmen are met.

3. Petition for an article of acceptance be placed in the warrant at a Regular or Special Town Meeting. A majority vote of the people is required for approval.

10.4 Soil Information.

At the expense of the subdivider, the Planning Board may obtain the services of a licensed site evaluator to check any soil information in a subdivision. The Board may require a high intensity soil survey for certain areas.

10.5 Water Supply

A. The applicant shall present sufficient evidence to the Planning Board that the water supply system to be used will provide the quantity and quality of water necessary for the use intended before the Final Plan is approved by the Planning Board.

B. A central water supply system with fire hydrants shall be installed, if applicable, at the expense of the subdivider, or if in the opinion of the Board service to each lot by a central water system is not feasible, the Board may allow individual wells to be used, which shall be installed at the expense of the divider on lots containing dwellings erected by the subdivider or his agent.

C. The subdivider may construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.

D. If a central water supply system is provided by the subdivider, location and protection of the source, and design, construction, and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the "Manual for Evaluating Public Drinking Water Supplies", Public Health Service No. 1180 (1969).

E. In areas known to have drilled water well problems such as less than one-half gallon yield per minute of flow per well, or a high level of contaminants as defined in the Maine Rules Related to Drinking Water, the subdivider may be required to prove the sufficiency of potable water for each lot proposed as defined in the primary drinking water standards. Such requirements will be based on The Comprehensive Plan and other studies accepted by the Municipality as being accurate.

F. Fire ponds are to be encouraged and where identified by the Comprehensive Plan may be required.

10.6 Sanitary Standards

A. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.

B. A sanitary sewer system shall be installed at the expense of the subdivider on lots containing dwellings erected by the subdivider or his agent.

C. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Plumbing Rules. In addition, test pit information shall be submitted indicating a suitable reserve area for soil for each lot.

D. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Plumbing Rules.

10.7 Surface Drainage

A. Where a subdivision is traversed by a watercourse, drainage way or where there exists surface water drainage and storm water runoff created by the subdivision and owners of property abutting it, there shall be provided an easement or drainage right-of way, and culverts, catch basins, or other means of channeling surface water within such subdivision and over the property of owners abutting upon it, of such nature, width, and location as the Board deems adequate. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.

B. The developer may be required to provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision will not create erosion, drainage, or storm water runoff problems either in the subdivision or in adjacent properties. The developer may also be required to submit a surface drainage plan showing ditching, culverts, easements, and other proposed improvements.

SECTION XI. PERFORMANCE GUARANTEES

11.1 Types of Guarantees.

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

A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

B. A performance bond payable to the Town issued by a surety company approved by the Municipal officers;

C. 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 Municipal Officers; or

D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

11.2 Contents of Guarantee.

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

11.3 Escrow Account.

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

11.4 Performance Bond.

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

11.5 Letter of Credit.

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

11.6 Conditional Agreement.

The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four lots may be sold or built upon until either:

A. It is certified by the Board, or its agent, that all of the required accordance with these regulations and the regulations of the appropriate utilities; or

B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the require improvements at an amount for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 11.8.

11.7 Phasing of Development.

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

11.8 Release of Guarantee.

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

11.9 Default.

If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he/she shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

11.10 Private Roads.

Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan: "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be maintained by the Town."

11.11 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required by Section X of these regulations, as well as any other improvements required by the Board.

SECTION XII. WAIVERS

12.1 Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations.

12.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirements for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purposes of the Comprehensive Plan, the zoning ordinance or these regulations.

12.3 In granting waivers to any of these regulations in accordance with Section 12.1 and 12.2, the Board shall require such conditions as will assure the objectives of the regulations are met.

12.4 When the Board grants a waiver to any of the requirements of these standards, the Final Plan shall indicate the waivers granted and the date on which they were granted.

12.5 Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the Registry of Deeds.

A. In the case of an amendment, if no amended plan is to be recorded, a certificate shall be prepared in recordable form and recorded in the Registry of Deeds. This certificate shall:

1. Indicate the name of the current property owner;

2. Identify the property by reference to the last recorded deed in its chain of title; and

3. Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

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

SECTION XIII. APPEALS

An appeal from a decision of the Planning Board regarding interpretation of the Ordinance may be taken to the Municipal Board of Appeals in accordance with Title 30-A Chapter 123 § 2691. Appeals on other issues including issue of fact shall be taken directly rules of Court Procedure.

SECTION XIV. SEPARABILITY AND EFFECTIVE DATE

A. The invalidity of any provision of these standards shall not invalidate any other part

B. These standards shall take effect immediately upon adoption.

SECTION XV. ASSURANCE OF COMPLIANCE

The Planning Board, to assure that the subdivision complies with the Subdivision Ordinance and regulations, may contract outside services, at the Subdividers expense. Such services may include, but not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees.

SECTION XVI. CERTIFICATION OF COMPLIANCE

No parcel, lot, or structure shall be conveyed, leased, or occupied, or offered for sale, conveyance, lease or occupancy without certification from the Planning Board that all the terms of the subdivision's approval have been complied with by the Subdivider.

I hereby attest that this is a true copy of the Swan's Island Subdivision Ordinance duly adopted at a Town Meeting held on 03·06·06

Susan J May
Swan's Island Town Clerk