Town of Mount Desert
Subdivision Ordinance

This ordinance, as enacted at the May 5, 2026 Annual Town Meeting, repeals the **Subdivision Ordinance** as amended through May 7, 2024.

EFFECTIVE MAY 5, 2026
ADOPTED MAY 5, 2026

A True Copy Attest

Claire Woolfolk

Claire Woolfolk
Town of Mount Desert Town Clerk

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Section 1 Purposes and Applicability

1.1 Purposes

The purposes of this Ordinance are as follows: 1) To assure the comfort, convenience, safety, health, and welfare of the people of the Town of Mount Desert; 2) To protect the environment; 3) To promote the development of an economically sound and stable community; 4) To assure that a sufficient level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures; 5) To minimize potential negative impacts from new subdivisions on neighboring properties and on the Town; 6) To provide for the expeditious and efficient process for the review of proposed subdivisions; and 7) To comply with M.R.S. § 4401 *et. seq*., and all amendments thereto.

1.2 Applicability

The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, M.R.S. § 4401 *et. seq*., as amended. A lot of 40 or more acres shall be counted as a subdivision lot for the purposes of this Ordinance.

This Ordinance shall be known and may be cited as “Subdivision Ordinance for the Town of Mount Desert, Maine", adopted and effective by vote of the Town on May 5, 2026. This Ordinance repeals and replaces any municipal ordinance previously enacted to control the development of subdivisions in the Town of Mount Desert (the “Town”).

Any application for review and approval under this Ordinance submitted to the municipal review authority before the effective date shall not be governed by the terms of this Ordinance and any application submitted after the effective date shall be subject to and governed by the terms of this Ordinance.

Section 2 Authority and Administration

2.1 Authority

A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A Part 2, Section 1 of the Maine Constitution and 30-A M.R.S. § 3001. These standards have been prepared in accordance with M.R.S. § 4401 *et seq*., and all amendments thereto.

2.2 Administration

A. The Town of Mount Desert Planning Board (the “Board”) shall administer this Ordinance.
B. The Town of Mount Desert Code Enforcement Officer shall be responsible for ensuring compliance with the provisions of this Ordinance after Planning Board review including site plan compliance and enforcement over construction activities. No building, plumbing, or other construction permits shall be issued for a project by the Code Enforcement Officer until an application has been reviewed and approved by the Board and any attendant conditions of approval are fulfilled.

2.3 Amendments to this Ordinance

This Ordinance may be amended by the legislative body of the Town of Mount Desert. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least fourteen (14) days in advance of the hearing.

2.4 Interpretation, Conflict and Severability

A. The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated they are necessary to promote the public health, safety and welfare. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.

B. The provisions of this Ordinance are separable. If any portion of this Ordinance is declared by the courts to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.

C. This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

2.5 Cross-References

A. Articles, sections, and tables in this ordinance are cross-referenced for the convenience of the reader. Any omissions or mis-references shall not preclude projects from having to meet the requirements of applicable articles, sections, and tables in the ordinance.

Section 3 Administrative Procedures and Fees

3.1 Levels of Review by Project Type

3.1.1 Minor Land Subdivision Plan Review. This level of review shall include projects that involve the division of land ONLY and creates 4 or fewer lots in a way that triggers subdivision review per this Ordinance. Each Minor Land Subdivision shall undergo a Preliminary and Final Plan review before the Planning Board at two separate meetings.

3.1.2 Major Land Subdivision Plan Review. This level of review shall include projects that involve the division of land ONLY and creates 5 or more lots in a way that triggers subdivision review per this Ordinance. Each Major Land Subdivision shall undergo a Sketch, Preliminary and Final Plan review before the Planning Board at three separate meetings.

3.1.3 Minor Structure Subdivision Plan Review. This level of review shall include projects that involve the division of a new or existing structure ONLY and creates 4 or fewer dwelling units that triggers subdivision review per the provisions of this Ordinance. Each Minor Structure Subdivision shall undergo a Preliminary and Final Plan review before the Planning Board at two separate meetings.

3.1.4 Major Structure Subdivision Plan Review. This level of review shall include projects that involve the division of a new or existing structure ONLY and creates 5 or more dwelling units that triggers subdivision review per the provisions of this Ordinance. Each Major Structure Subdivision shall undergo a Sketch, Preliminary, and Final Plan review before the Planning Board at three separate meetings.

3.1.5 Simultaneous Subdivision of Land and Structures Plan Review. This level of review shall include all projects that divide both land and structures, regardless of how many lots or dwelling units are created, as part of the subdivision process and that triggers subdivision review per the provisions of this Ordinance. Each Subdivision involving both

land and structure subdivision(s) shall undergo a Sketch, Preliminary and Final Plan review before the Planning Board at three separate meetings.

3.1.6 Revisions to Previously Approved Subdivision Plans. This level of review shall apply to any revisions or amendments made to a subdivision plan previously approved by the Board. A revision that does not increase the number of lots or dwelling units shall only require a Final Plan review. Revisions that increase the number of lots or dwelling units shall follow permitting procedures as though the entirety of the project were a new application, beginning with Preliminary Plan Review.

3.2 Procedures to be Eligible for Project Review

3.2.1 Applications in Writing. All applicants for any type of subdivision plan review must be made in writing to the Code Enforcement Officer and submit a completed Subdivision Review Application Form. All applications shall be made by the owner of the property or an agent as designated by the owner through an authorization letter. Ten physical copies of the application and materials and one digital PDF copy shall be provided to the Code Enforcement Officer.

3.2.2 Application Deadline. Applications shall be delivered to the Code Enforcement Officer with all appropriate fees based on the posted "Planning Board Meetings, Submittal Deadlines, and News Paper Ad Dates[1]" distributed by the Town.

3.2.3 Supplemental Application Materials.

A. Typically, no supplemental application materials shall be accepted by the Code Enforcement Officer after the posted submission deadline. However, the Code Enforcement Officer shall have the ability to determine the reasonable acceptance of limited application material after the deadline date if an application is determined to be mostly complete and only minor additions to the project submittal are required.

B. Supplemental application materials shall NOT be accepted by the Code Enforcement Officer once projects have been distributed to the Planning Board for review. At this point, if an applicant has additional information to be reviewed by the Planning Board, the applicant must bring nine copies[2] of the information to the meeting and allow the Planning Board to review the relevant material. If the Planning Board determines the information can be reasonably reviewed and understood by the Board and any interested members of the public without causing a substantial delay to the meeting, the Board may vote to accept the additional information. If the Board denies the request to accept additional information, the project shall be reviewed as if the information is missing.

3.2.4 Application Completeness.

A. Initial determination of completeness shall be made by the Code Enforcement Officer prior to a project being placed on a Planning Board agenda. If application materials are missing and the Code Enforcement Officer determines required materials cannot be acquired in a reasonable time, the Code Enforcement Officers shall decline to place a project on the agenda and inform the applicant in writing

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[1] All dates outlined in the "Planning Board Meetings, Submittal Deadlines, and News Paper ad Dates" public document shall be in compliance with requirements outlined in MRS § 4403 granting a public meeting within 30 days of application due date.

[2] Seven copies for the Planning Board, one copy for the Code Enforcement Officer, and one copy for the public.

that the project submission is incomplete with an indication of the missing required materials.

B. Determination of completeness for approval purposes shall be made by the Planning Board at a scheduled public meeting. The Board has the right to review a project and determine whether it is incomplete or missing significant information. In this instance, the Board may vote that the project is incomplete or vote to re-classify the project as a Sketch Plan Review. The Board shall issue a finding of facts regarding their approval, denial, or approval with conditions, within 30 days of the Final Plan meeting.

3.2.5 Application Fees.

A. The payment of the required subdivision application fees shall be considered when determining the completeness of an application. Application fees are non-refundable and if an application is found to be incomplete, the fee shall not be returned to the applicant. Fees are based on the Board of Selectmen's permit fee schedule.

B. After reviewing a Sketch or Preliminary Plan, the Planning Board may determine that proper review of a project requires third-party independent consultants to evaluate certain portions of an application. After such determination established by vote, the Board may require the applicant deposit funds that are sufficient to reimburse the Town for all reasonable costs for hiring engineers, architects, or other technical experts. If the Planning Board requires an escrow account, the applicant shall pay an escrow fee as specified in the Board of Selectmen's permit fee schedule to be deposited in a special escrow account designated for that subdivision application.

If the balance in this special account is drawn down by 75%, the Board shall notify the applicant and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit whenever the balance of the escrow account is drawn down by 75% of the original deposit. If the amount held in escrow is more than the actual amount invoiced to the Town at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

3.2.6 Setting the Agenda. The Code Enforcement Officer shall prepare a written agenda for each regularly scheduled meeting, special meeting or hearing including all projects that have been accepted following the procedure outlined above. A file shall be established for every proposed subdivision project that is accepted and placed on the agenda.

3.2.7 Public Hearing Notification. The Board shall hold a public hearing to allow for comment on an application at all stages of plan review. This public hearing shall be held within 30 days of the application due date listed in the "Planning Board Meetings, Submittal Deadlines, and News Paper Ad Dates" schedule distributed by the Town. The Code Enforcement Officer shall post this public hearing, as well as the full meeting agenda, two times in a newspaper of general circulation in the Town. The date of first publication shall be at least seven days prior to the meeting.

3.2.8 Notice to Abutters. The Code Enforcement Officer shall notify all property owners within 250 ft. of any boundary of the proposed subdivision (measured from lot lines, not the physical subdivision) by First Class mail of the upcoming meeting and the project their property abuts.

3.2.9 Attendance at Meeting. Attendance by an applicant or their authorized representative at the Planning Board meeting where an application is discussed is mandatory. Commitment to attend by either an applicant or their agent is required prior to being placed on the agenda.

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

If all the above considerations are completed, a project is eligible for review at the relevant Planning Board meeting.

Section 4 Application Review Process

4.1 Stages of Plan Review

4.1.1 Sketch Plan Review. The purpose of Sketch Plan Review is for the applicant to present general information regarding the proposed subdivision, and to receive Planning Board comments prior to undertaking the costs associated with further development of the proposal. Sketch Plan Review shall not be considered the initiation of the review process for the purpose of bringing the plan under protection of 1 M.R.S. § 302. Sketch Plans are required for Major Land Subdivisions, Major Structure Subdivisions, and Simultaneous Subdivisions of Land and Structures. Sketch Plan Review is available, but optional, for Minor Land Subdivisions, Minor Structure Subdivisions, and Revisions to Previously Approved Subdivisions. There is no Board action at a Sketch Plan Review. Sketch Plan Review can occur at any point in a project review timeline, where the Board determines a project requires further information or was improperly assigned Preliminary Plan Review status.

The applicant shall submit to the Planning Board an application for Sketch Plan Review as required in Section 3.2.1 of this Ordinance.

At the Sketch Plan Review meeting, the Planning Board will provide guidance as follows:

A. A determination of the scope of the application, the required review process, and other information such as to whether the subdivision contains roads or other utilities which may require detailed information, or whether the proposed subdivision may need permits or review by state or federal agencies.
B. A determination of a suitable contour interval to be utilized on the Final Plan, and whether additional submittals, such as a traffic study, an erosion control plan, or an analysis of special historic or ecological resources, should be included.
C. A preliminary opinion concerning any waivers to submission requirements. Formal acceptance of waivers shall not occur until the Planning Board has an opportunity to review the Final Plan.
D. An opinion on the requirement for and amount of a technical review fee.

4.1.2 Preliminary Plan Review. The purpose of a Preliminary Plan Review is for the Board to determine the completeness of a project application and ensure the project is ready for Final Plan approval. Action taken by the Board at a Preliminary Plan Review hearing will be to vote yes or no on the completeness of the application based on the requirements outlined in Sections 4.3-4.6 of this Ordinance.

The applicant shall submit to the Planning Board an application for Preliminary Plan Review as required in Section 3.2.1 of this Ordinance. If a Sketch Plan is required for a

project, the Preliminary Plan application must be turned in within 12 months of the Sketch Plan presentation. Failure to turn in the application within this timeline sends the project back to the Sketch Plan phase.

4.1.3 Final Plan Review. The purpose of a Final Plan Review is to establish that a subdivision application has met all requirements of this Ordinance and can be accepted by the Town. Action taken by the Board is to either deny a project or give official municipal approval of a subdivision application. The Planning Board may also establish special conditions or grant waivers for a project at this time.

The applicant shall submit to the Planning Board an application for Final Plan Review as required in Section 3.2.1 of this Ordinance. A Final Plan application must be turned in within eight months of the Preliminary Plan meeting. Failure to turn in the application within this timeline sends the project back to the Preliminary Plan phase.

4.1.4 Revisions to Previously Approved Subdivision Plans. There will be times that a previously approved subdivision plan needs amending. The purpose of allowing a separate review for revisions to an approved plan is that small changes do not force an applicant to go through the entire subdivision review process a second time. However, if the project is changing in a substantial way that would increase dwelling units or lots, the previously approved plan must go through Preliminary and Final review again. Otherwise, only one meeting is needed to review a Revision.

The applicant shall submit to the Planning Board an application for Revision to a Previously Approved Plan Review as required in Section 3.2.1 of this Ordinance, unless the revision would add dwelling units or lots, in which case the applicant shall follow the procedures outlined for Preliminary Plan Review for Minor Subdivisions and Sketch Plan for Major Subdivisions.

4.1.5 Site Visits. Site Visits give the Board the opportunity to see the physical location of a proposed subdivision and inspect aspects of a subdivision application. Site Visits can be scheduled any time during the plan review process, but prior to Final Plan Review. Site Visits shall be publicly posted like a regularly scheduled Planning Board meeting. Prior to the site visit and upon request of the Board, the applicant shall place “flagging” at the centerline of any proposed roads, at the approximate intersections of the road center and lot corners, as well as at the location of other important proposed structures and features as may be requested by the Board.

4.2 Plan Review Requirements

4.2.1 Sketch Plan Review. The following requirements are necessary for all Sketch Plan Reviews regardless of review classification:

A. Completed Application Form. The application form will require information such as names and addresses of the owner of record and the applicant, names and addresses of any consultants working on the project, tax map and lot numbers, zoning information, and approximate size of the project.
B. A narrative description of existing conditions on the property- number and size of existing lots, physical constraints such as wetlands, and development opportunities.
C. Sketch of the proposed subdivision. The sketch may be freehand, but must show a rough outline of the proposed subdivision including a scaled layout of streets, lots, and other features that will illustrate the potential project to the Board.

D. Right, title, or interest in the property. A copy of the deed to the property, option to purchase the property, or other documentation to demonstrate right, title, or interest in the property is required.
E. A copy of a portion of the USGS topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision.
F. List of any traffic studies, utility studies, State or Federal permits, potential waiver requests (see Section 4.6), or other applicable due diligence that will be completed for the project.
G. Additional information applicants may want to consider providing at Sketch Plan Review, although it is not required: Dimensions of proposed buildings, existing property burdens and restrictions such as easements, descriptions of proposed water and wastewater infrastructure, and potential special features of the subdivision, such as common area.

4.2.2 Preliminary Plan Review Involving Land. The following requirements are necessary for all Preliminary Plan Reviews for divisions of land or the simultaneous division of both land and structure(s):

A. Completed Application Form: The application form will require information such as names and addresses of the owner of record and the applicant, names and addresses of any consultants working on the project, tax map and lot numbers, zoning information, and approximate size of the project.
B. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach copy of Secretary of State's Registration.
C. Right, title, or interest in the property (option, land purchase contract, record ownership, etc.). A copy of such shall be provided. If right, title, or interest is proved by means other than a deed, provide a copy of the most recent deed for the property as well.
D. Identification of contiguous ownership of neighboring lots by applicant.
E. Names of property owners within 250 feet from the parcel to be subdivided, and on opposite side of any road from parcel to be subdivided.
F. Information within Existing Conditions narrative or Plan:
    1. Date plan was prepared, true north point, graphic map scale of not more than 100 ft. per one inch, unless otherwise deemed reasonable by the Board.
    2. Location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
    3. Current zoning district(s) of property and dimensional requirements in tabular form.
    4. Zoning Districts of abutting properties are labeled.
    5. Location of all wetlands, regardless of size, all water bodies, and areas within the Shoreland Zone.
    6. Location and size of any existing sewer lines, water mains, culverts, subsurface sewage disposal systems, and wells.
    7. Other existing utilities such as electric.
    8. Contour lines at intervals within the range of 2’-5’.
    9. The location, names, and present widths of existing streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision.

10. Existing farmland within the property; active farmland sized five acres or more and areas designated as prime farmland or soils of Statewide or local importance if sized five acres or more.
11. A copy of the Hancock County Soil Survey for the subject property.
12. Standard boundary survey and internal development survey with complete descriptive data by bearings and distances, made by a professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years (Title 30-A M.R.S. § 4401).

G. Information on or accompanying Proposed Plan:
1. Proposed Name of Subdivision.
2. Date plan was prepared, true north point, graphic map scale of not more than 100 ft. per one inch, unless otherwise deemed reasonable by the Board.
3. Current zoning district(s) of property and dimensional requirements in tabular form.
4. Zoning Districts of abutting properties are labeled.
5. Acreage of parcel to be subdivided as well as acreage of resulting lots.
6. Proposed lot lines with approximate dimensions and suggested location, where known, of buildings.
7. Location of all parcels to be dedicated to public use, the conditions of such dedication, as well as the location of all natural features of site elements to be preserved.
8. Location of all proposed drains which shall provide adequate stormwater management as well as a stormwater management plan.
9. Location and size of any proposed sewer lines, water mains, culverts, subsurface sewage disposal systems, and wells.
10. If not connected to public sewer, a subsurface water disposal system, designed by a licensed soil engineer identifying soil types and a map showing the location of soil test areas, unless the parcel will utilize public sewer. Based on soil test results, certain modifications of the Preliminary Plan may be required (attach copy of soils report to application). There shall be at least one satisfactory soil test per lot.
11. Other proposed utilities such as electric. [3]
12. The Subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps, whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area, the subdivider will delineate the 100-year flood elevation and flood hazard boundaries within the subdivision.
13. Contour lines at an interval within the range of 2'-5', showing elevations relative to mean sea level.
14. Any restrictive covenants to be placed on the deeds.
15. Name/Seal of surveyor.

[3] Items 8-11 can be on the site plan or a separate utilities plan.

16. Traffic entering and exiting sight distances for all proposed intersections created to serve the development.
17. If a structure is being subdivided into multiple dwelling units as part of the overall subdivision, provide a floor plan layout showing rooms, utilities, and other details within the structure.
18. Proposed soil erosion and sedimentation control plan prepared according to the most recent version of the Maine Erosion & Soil Control Best Management Practices Manual. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a Great Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if impervious surfaces such as roofs and driveways are less than five percent of the area of the subdivision. Calculations establishing the impervious surfaces limitations shall be submitted with the waiver request and the maximum impervious surface for each lot shall be noted on the plan.
19. Other information not indicated above, as specified by the Board.

H. Information Showing Compliance with LUZO and Subdivision Ordinances – The applicant shall submit evidence to the Board to show compliance with:
   1. Section 4.3 of this Ordinance
   2. Section 6 of the LUZO
   3. Such other regulations and ordinances referred to in Sections 4.3 and 4.5 of this Ordinance as the Board may require.

4.2.3 Final Plan Review Involving Land. The following requirements are necessary for all Final Plan Reviews for divisions of land or the simultaneous division of both land and structure(s) in addition to the requirements for Preliminary Plan Review in Section 4.2.2 of this Ordinance:

A. Street Addressing approved by the Town of Mount Desert E-911 addressing officer.
B. Estimates of vehicular traffic created by the subdivision on a daily basis and during peak hours using the most recent edition of the Institute of Transportation Engineers figures. Trip generation rates from other sources may be used, with Board approval, if these sources better reflect local conditions.
C. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the Local Register of Historic Places or have been identified in the comprehensive plan as sensitive or likely to contain such sites. A letter from Maine Historic Preservation Commission stating the project will not adversely impact historic or archaeological sites is required.
D. Map of High or Moderate Wildlife Habitat or irreplaceable natural areas within or adjacent to the property with letter from Maine Dept. of Inland Fisheries and Wildlife stating the project will not have an adverse impact on said habitats/areas.
E. Narrative description of mail delivery.
F. Proof of submittal for all State and Federal permits.
G. Lighting Plan pursuant to LUZO Section 6A.6.
H. Location and type of vegetative cover.
I. Detailed design and construction plans for the infrastructure, including, but not limited to, roads, parking lots, sidewalks, and utilities in accordance with the Town's Ordinances.

J. When water is to be supplied by an on-site well(s), a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate. If water is to be supplied by public water supply, a letter from the Water District stating the project will not overburden the public system is required.
K. Location of any sand and gravel aquifers as mapped by the Maine Geologic Survey (MGS).
L. Description of solid waste collection within subdivision.
M. Description of construction/demolition waste disposal during construction.
N. Evidence of adequate financial and technical capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit.
O. If proposed roads or other land is to be offered to the Town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title. All roads and other public improvements not dedicated to the Town during such time prior to the actual acceptance by the Town shall be maintained by the subdivision owners or developer.
P. A draft of any road association or homeowners' association agreement to assure maintenance of private infrastructure and to ensure services to the subdivision.
Q. The construction items for which cost estimates and performance guarantees will be required to include a construction schedule, cost estimates considering inflation, provisions for inspections, and an estimated completion date.
R. Letters from the Mount Desert Public Works Director, Water District, and Fire Chief indicating their review and any concerns regarding the subdivision.
S. A statement on how the project complies with the most recent version of the Town of Mt. Desert Comprehensive Plan.
T. If located within the watershed of a Great Pond, a phosphorus management plan describing how the subdivision will not adversely impact the phosphorus concentration level within a Great Pond and that is prepared in compliance with the most recent version of the Maine Department of Environmental Protection Phosphorus Design Manual.
U. Affidavit signed by the applicant indicating no timber harvest occurred on the tract within the preceding 5 years, or if it has, an affidavit signed by a licensed forester or an agent of the Maine Forest Service indicating the timber harvest was not violation of rules adopted pursuant to 12 M.R.S. § 8869(14), as amended.

4.2.4 Preliminary Plan Review Involving Structures Only. The following requirements are necessary for <u>all Preliminary Plan Reviews for divisions of new or existing structures:</u>

A. Completed Application Form: The application form will require information such as names and addresses of the owner of record and the applicant, names and addresses of any consultants working on the project, tax map and lot numbers, zoning information, and approximate size of the project.
B. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach copy of Secretary of State's Registration.
C. Right, title, or interest in the property (option, land purchase contract, recordownership, etc.). A copy of such shall be provided. If right, title, or interest is proved by means other than a deed, provide a copy of the most recent deed for the property as well.
D. Names of property owners within 250 feet from the parcel to be subdivided, and on opposite side of any road from parcel to be subdivided.
E. Information within Existing Conditions narrative or Plan:
    1. Date plan was prepared, true north point, graphic map scale of not more than 100 ft. per one inch, unless otherwise deemed reasonable by the Board.

2. Location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
3. Current zoning district(s) of property and dimensional requirements in tabular form.
4. Zoning Districts of abutting properties are labeled.
5. Location of all wetlands, regardless of size, all water bodies, and areas within the Shoreland Zone.
6. Location and size of any existing sewer lines, water mains, culverts, subsurface sewage disposal systems, and wells.
7. Other existing utilities such as electric.
8. Contour lines at intervals within the range of 2'-5'.
9. The location, names, and present widths of existing streets, highways,easements, building lines, parks, and other open spaces on or adjacent to the subdivision.
10. Existing farmland within the property; active farmland sized five acres or more and areas designated as prime farmland or soils of Statewide or local importance if sized five acres or more.
11. A copy of the Hancock County Soil Survey for the subject property.

F. Information on or accompanying Proposed Plan:
1. Proposed Name of Subdivision.
2. Date plan was prepared, true north point, graphic map scale of not more than 100 ft. per one inch, unless otherwise deemed reasonable by the Board.
3. Acreage of parcel containing structure(s) to be subdivided.
4. Proposed landscaping.
5. Location of all proposed drains which shall provide adequate stormwater management as well as a stormwater management plan.
6. Location and size of any proposed sewers and water mains, culverts, subsurface sewage disposal systems, and wells.
7. If not connected to public sewer, a subsurface water disposal system, designed by a licensed soil engineer identifying soil types and a map showing the location of soil test areas, unless the parcel will utilize public sewer. Based on soil test results, certain modifications of the Preliminary Plan may be required (attach copy of soils report to application). There shall be at least one satisfactory soil test per lot.
8. Other proposed utilities such as electric. [4]
9. The Subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps, whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area, the subdivider will delineate the 100-year flood elevation and flood hazard boundaries within the subdivision.
10. Contour lines at an interval within a range of 2'-5'.
11. Any restrictive covenants to be placed on the deeds.

[4] Items 5-8 can be on the site plan or a separate utilities plan.

12. Name/ Seal of surveyor or engineer.
13. Floor Plan layout showing rooms, utilities, and other details within the structure.
14. Other information not indicated above, as specified by the Board.

G. Information Showing Compliance with LUZO and Subdivision Ordinances – The applicant shall submit evidence to the Board to show compliance with:
   1. Section 4.4 of this Ordinance
   2. Section 6 of the LUZO
   3. Such other regulations and ordinances referred to in Sections 4.4-4.5 of this Ordinance as the Board may require.

4.2.5 Final Plan Review Involving Structures Only. The following requirements are necessary for all Final Plan Reviews for divisions of new or existing structures:

A. Standard boundary survey and internal development survey with complete descriptive data by bearings and distances, made by a professional land surveyor or engineer. If no new structures are being built, a letter signed by a surveyor or engineer stating that the most recently completed survey of the property is still adequate and that this assertion was confirmed by a site visit.

B. Street Addressing approved by the Town of Mount Desert E-911 addressing officer.

C. Proposed soil erosion and sedimentation control plan prepared according to the most recent version of the Maine Erosion & Soil Control Best Management Practices Manual. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a Great Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if impervious surfaces such as roofs and driveways are less than five percent of the area of the subdivision. Calculations establishing the impervious surfaces limitations shall be submitted with the waiver request and the maximum impervious surface for each lot shall be noted on the plan.

D. Estimates of vehicular traffic created by the subdivision on a daily basis and during peak hours using the most recent edition of the Institute of Transportation Engineers figures. Trip generation rates from other sources may be used, with Board approval, if these sources better reflect local conditions.

E. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the Local Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites. A letter from Maine Historic Preservation Commission stating the project will not adversely impact historic or archaeological sites is required.

F. Map of High or Moderate Wildlife Habitat or irreplaceable natural areas within or adjacent to the property with letter from Maine Dept. of Inland Fisheries and Wildlife stating the project will not have an adverse impact on said habitats/areas.

G. Narrative description of mail delivery.

H. Proof of submittal for all State and Federal permits.

I. Lighting Plan pursuant to LUZO Section 6A.6..

J. Detailed design and construction plans for the infrastructure, including, but not limited to, roads, parking lots, sidewalks, and utilities in accordance with the Town's Ordinances.

K. When water is to be supplied by an on-site well(s), a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will

be adequate. If water is to be supplied by public water supply, a letter from the Water District stating the project will not overburden the public system is required.

L. Location of any sand and gravel aquifers as mapped by the Maine Geologic Survey (MGS).
M. Description of solid waste collection within subdivision.
N. Description of construction/demolition waste disposal during construction.
O. Evidence of adequate financial and technical capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit.
P. The construction items for which cost estimates and performance guarantees will be required to include a construction schedule, cost estimates considering inflation, provisions for inspections, and an estimated completion date.
Q. Letters from the Mount Desert Public Works Director, Water District, and Fire Chief indicating their review and any concerns regarding the subdivision.
R. A statement on how the project complies with the most recent version of the Town of Mount Desert Comprehensive Plan.
S. If located within the watershed of a Great Pond, a phosphorus management plan describing how the subdivision will not adversely impact the phosphorus concentration level within a Great Pond and that is prepared in compliance with the most recent version of the Maine Department of Environmental Protection Phosphorus Design Manual.

4.2.6 Additional Studies the Board May Require. The following items may be required by the Planning Board, for any project review type, due to the size of a project, particular characteristics of a development site or subdivision proposal, or issues that are raised during the preliminary plan review. If required, they will normally be placed as requirements for Final Plan approval:

A. High Intensity Soil Survey by a registered soil scientist.

B. Hydrogeological Assessment: A hydrogeologic assessment prepared by a certified geologist, or a registered professional engineer experienced in hydrogeology, to determine adequacy of groundwater to meet domestic demands of the proposed subdivision, fire protection water supplies, and the potential for impacts on groundwater supplies of proposed groundwater withdrawals and of wastewater disposal on wells within and adjacent to the subdivision.

C. Expansive Traffic Study: A traffic study and impact analysis may be requested for projects that have a unique or increased impact on the community (i.e. projects involving a drive-thru operation, projects with more than 100 ADT, etc.). The Board should be specific in the information they are looking for from the study.

D. Additional Information may be Requested: When the need for additional information is clearly indicated by objective factual analysis and by a majority vote of the Planning Board members, the Planning Board may require additional information not listed above to determine whether the statutory review criteria of 30-A M.R.S. §4404 have been met.

4.3 General Review Standards for All Projects Involving Land

When reviewing an application involving land, the Planning Board, prior to granting approval, shall find that the following performance standards are met as described below, which are at least the minimum requirements from 30-A M.R.S. §4404, as well as all applicable provisions of the Land Use Zoning Ordinance.

4.3.1 Buffer Strip.

A. Buffers in the form of fences, landscaping, berms and mounds shall be required to minimize any adverse impacts or nuisance on the site or on adjacent properties.

B. Buffers shall be considered in the following areas and for the following purposes:
    1. Along property lines, to shield various uses from each other;
    2. Along service or site roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
    3. Parking lot, garbage collection areas, and loading and unloading areas; and
    4. To block prevailing wind patterns and to stop wind-borne debris from leave the site.
C. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public roadway, and to otherwise prevent any nuisances.
D. Buffers shall be considered in or for the following areas and purposes among others:
    1. Along property lines, to shield various uses from each other.
    2. Along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night; and
    3. Driveway accesses shall be designed to minimize the visual interruption of the buffer areas.

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

A. The elevation of the land above sea level and its relation to the flood plain;
B. The nature of soils and subsoils and their ability to adequately support waste disposal;
C. The slope of the land and its effect on effluents;
D. The availability of streams for disposal of effluents; and,
E. The applicable State and local health and water resources rules and regulations.

4.3.3 Sufficient Water. The project has sufficient water supply, either public or private, for the foreseeable needs of the subdivision and proof of such will be supplied in the application.

4.3.4 Erosion. The project will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results by following the standards set out in the LUZO Section 6.A.2.

4.3.5 Traffic.

A. The project will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed by providing the information requested in Section 4.2 of this Ordinance.
B. If the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the applicant has discussed with the Maine Department of Transportation and the Department of Transportation has provided documentation indicating that the driveways or entrances conform to their required standards.

4.3.6 Sewage Disposal.

A. Where any part of a proposed subdivision is located within 200 feet of a public sanitary sewer line, the subdivider shall connect with such sanitary sewer line by means of a main not less than 8 inches in diameter, provided however, that the appropriate municipal agencies shall first have certified that extending the services will not be an excessive burden on the system.

B. Where private subsurface sewage disposal is to be utilized, the subdivider must conform to all State of Maine Plumbing Code and LUZO requirements. Furthermore:
   1. Disposal sites shall be totally contained within the lot being serviced.
   2. Systems shall be designed to the highest standards for the specified use.
   3. There shall be no contamination of existing or proposed wells, or any other water source.

4.3.7 Solid Waste Disposal. An applicant shall provide verification that the subdivision will not produce undue burden on the municipality's ability to collect and dispose of solid waste and that the method for solid waste disposal complies with the Town of Mount Desert Solid Waste Ordinance.

4.3.8 Aesthetic, Cultural, and Natural Values. The applicant shall provide evidence that aesthetic, cultural, and natural sites are not adversely impacted by the subdivision by providing the materials requested in Section 4.2 of this Ordinance.

4.3.9 Conformance with other Laws, Regulations, and Plans. The proposed subdivision shall be in conformance with:

A. All pertinent local, State, and Federal ordinances, statutes, laws, and regulations, including Shoreland Zoning provisions.

B. If the proposed subdivision meets the definition of a subdivision as defined in the Site Location Act, Title 38, MRSA, Section 482, the subdivider must secure the approval of the State Board of Environmental Protection as well as the Board. When a proposed subdivision requires approval of the Board and the Board of Environmental Protection, each review may be conducted independently, and the Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location Act.

C. The most recently adopted Town of Mount Desert Comprehensive Plan.

4.3.10 Financial Capacity. The developer shall provide evidence of sufficient financial capacity and capability to complete the project per Section 4.2 of this Ordinance.

4.3.11 Surface Waters. Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250') feet of any wetland, great pond or, river as defined in 38 M.R.S.A. §§ 435-490, a project will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water per the LUZO Section 6C.11.

4.3.12 Groundwater. A project will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

4.3.13 Flood Areas. Applicants shall provide the information requested in Section 4.2 of this Ordinance. If any area of the subdivision is within the floodplain, the final plan must include a condition of plan approval prohibiting the construction of any dwellings or other structures except for access roads and essential utilities within the 100-year floodplain.

4.3.14 Freshwater Wetlands. All freshwater wetlands shall be mapped within the project area in accordance with Section 4.2 of this Ordinance and Shoreland Zoning requirements in the LUZO Section 6C.

4.3.15 Farmland. All farmland shall be mapped as described in Section 4.2 of this Ordinance.

4.3.16 Rivers, Streams, and Brooks. Any river, stream, or brook within or abutting the proposed subdivision has been identified on maps submitted as part of the application in accordance with Section 4.2 of this Ordinance. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S.A. §480-B.9.

4.3.17 Stormwater. The project will provide ample stormwater management by following the standards set out in the LUZO Section 6A.7.

4.3.18 Great Pond Phosphorus Concentration. The applicant has provided sufficient evidence that the construction and use of the proposed subdivision will not unreasonably increase a Great Pond's phosphorous level per Section 4.2 of this Ordinance.

4.3.19 Land Subject to Liquidation Harvesting. Proper procedures have been followed to comply with Section 4.2 of this Ordinance.

4.3.20 Spaghetti-lots Prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond as these features are defined in 38 M.R.S. §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five to one (5:1).

4.3.21 Ditches, Catch Basins. The Board may require the installation of ditches, catch basins, piping systems, and other appurtenances for the conveyance, control, or disposal of surface waters. Any culverts shall be at least 15" in diameter. Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.

4.3.22 Easements. The Board may require easements for sewage, drainage, utilities, or public access.

4.3.23 Reserved. Dedication for Year-Round Housing.

4.3.24 Common Area Provisions.

A. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more in diameter), the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided.

B. The Board may require that the subdivider reserve an area of land as a common area and/or recreational area for use by property owners in the subdivision.

1. The property owners may enter into a written agreement with the Selectboard for development and/or maintenance of the reserved land, but all costs of development and maintenance shall be borne by the property owners of the subdivision. The method for apportioning the cost as between individual property owners shall be subject to approval of the Town Selectboard.
2. The obligation to provide for the cost of development and/or maintenance of the reserved common area shall be included in the conveyance of each parcel of the subdivision to its rightful owner.

4.3.25 Wells. Because they are difficult to maintain in a sanitary condition, dug wells may be permitted only if it is not technically feasible to develop other groundwater sources.

4.3.26 Performance Guarantees. The Board may require that the subdivider file with the Board at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of the proposed improvements. *See* Section 4.7 of this Ordinance for specific instructions regarding performance guarantees.

4.3.27 Street Design and Construction.

A. Widths of rights-of way for road construction shall be not less than fifty (50) feet. The design and construction of all streets and roads shall be in accordance with the State Aid Road Specifications of the State of Maine Department of Transportation. Where an access road from a public road or highway is required to serve 3 or more lots, said access road shall be in accordance with the standards given below:

Street Construction Standards:

- Minimum Right of Way Width 50 ft
- Minimum paved road Width 16 ft
- Maximum Grade 12%[5]
- Minimum Centerline Radius 150 ft
- Minimum Tangent between Curves of reverse alignment 50 ft
- Roadway Crown 1/4 in./ft
- Minimum Angle of street intersection (degrees) 75°[6]
- Maximum Grade within 75 ft of intersection 2%
- Minimum curb radii at intersections 14 ft
- Minimum width of shoulders (each side) 3 ft
- Minimum thickness of material after compaction 18 in. placed in no greater than 12 in. lifts

B. Street Materials:
   - Aggregate Sub-base Course (Maine Dept. of Transportation Type B/C)
   - Crushed Aggregate Base Course (Maine Dept. of Transportation Type A) no less than 3 in.

C. Dead End Streets

   i. In addition to the design standards above, dead end streets shall be constructed to provide cul-de-sac turn-around with the following minimum requirements for radii:
      - Property line 65 ft
      - Outer edge of road 50 ft
      - Inner edge of road 30 ft

   ii. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac.

   iii. The Board may require the reservation of a twenty-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Mount Desert of any street, road, or right-of-way.

E. Driveway construction standards can be found in LUZO Section 6B.6.

4.3.28 Solar Energy Systems and Access to Direct Sunlight. The Board may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit,

[5]Maximum grade may be exceeded for a length of 100 feet or less, upon approval of the Planning Board

[6] Street intersection angles shall be as close to 90 degrees as feasible but no less than the listed angle.

restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other forms of permissible forms of land use controls.

4.4 General Review Standards for Projects Involving Structures Only

4.4.1 Stormwater. The project will provide ample stormwater management by following the standards set out in the LUZO Section 6A.7.

4.4.2 Sewage Disposal.

A. Where any part of a proposed subdivision is located within 200 feet of a public sanitary sewer line, the subdivider shall connect with such sanitary sewer line by means of a main not less than 8 inches in diameter, provided however, that the appropriate municipal agencies shall first have certified that extending the services will not be an excessive burden on the system.

B. Where private subsurface sewage disposal is to be utilized, the subdivider must conform to all State of Maine Plumbing Code and LUZO requirements. Furthermore:

    1. Disposal sites shall be totally contained within the lot being serviced.
    2. Systems shall be designed to the highest standards for the specified use.
    3. There shall be no contamination of existing or proposed wells, or any other water source.

4.4.3 Sufficient Water. The project has sufficient water supply, either public or private, for the foreseeable needs of the subdivision and proof of such will be supplied in the application.

4.4.4 Financial Capacity. The developer shall provide evidence of sufficient financial capacity and capability to complete the project per Section 4.2 of this Ordinance.

4.4.5 Conformance with other Laws, Regulations, and Plans. The proposed subdivision shall be in conformance with:

A. All pertinent local, State, and Federal ordinances, statutes, laws, and regulations, including Shoreland Zoning provisions.

B. If the proposed subdivision meets the definition of a subdivision as defined in the Site Location Act, Title 38, MRSA, Section 482, the subdivider must secure the approval of the State Board of Environmental Protection as well as the Board. When a proposed subdivision requires approval of the Board and the Board of Environmental Protection, each review may be conducted independently, and the Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location Act.

C. The most recently adopted Town of Mount Desert Comprehensive Plan.

4.4.6 Solid Waste Disposal. An applicant shall provide verification that the subdivision will not produce undue burden on the municipality's ability to collect and dispose of solid waste and that the method for solid waste disposal complies with the Town of Mount Desert Solid Waste Ordinance.

4.4.7 Wells.

A. Because they are difficult to maintain in a sanitary condition, dug wells may be permitted only if it is not technically feasible to develop other groundwater sources.

B. The applicant may be required to show the availability of adequate potable water. A test well may be required, if a public water system is not utilized.

4.4.8 Performance Guarantees. The Board may require that the subdivider file with the Board

at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of the proposed improvements. *See* Section 4.7 of this Ordinance for specific instructions regarding performance guarantees.

4.4.9 Vehicular Accessways. The Board shall require that the subdivider provide adequate travel way widths based on Section 4.3.27.

4.4.10 Other Information as Needed. Based on the particular nature of a specific project, the Board may review additional criteria from Section 4.3, so long as the subdivider is informed of this expanded review within five business days after completing their Preliminary Plan meeting.

4.5 Development Standards and Bonuses for Specialized Reviews

4.5.1 Cluster Subdivisions.

A. Purpose. The purpose of the cluster subdivision section of this Ordinance is to provide a voluntary mechanism that encourages new concepts of cluster housing that supports preservation of green and natural spaces, allows maximum variation in dimensional requirement so long as net residential density is not increased, and protects the character of the Town of Mount Desert. Cluster Subdivision projects shall achieve the desired results:
   1. Permanently protected open space and recreational areas;
   2. Allow for a smaller amount of land to be used in residential development, while still encouraging housing to be built; and
   3. Allow for efficient and sustainable solutions to housing in the Town of Mount Desert.

B. Basic Requirements
   1. General. All the requirements and standards of this Ordinance shall apply, except those dealing with lot layout and dimensions.
   2. Minimum Size. The minimum area of land in a cluster development shall be five acres, except where there is public water and sewer.
   3. Density Bonus. Cluster Subdivisions are eligible for a 25% density bonus, rounded up. This bonus shall not apply to land in Shoreland Zoning Districts.
   4. Common Area. The total land area of common area within the development shall be 25% of the total buildable acreage of the parcel.
   5. Distance to Common Area. Each lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common area.
   6. Shoreline Provisions. Neither shore frontage nor shoreline setbacks shall be reduced below the minimum normally required in Shoreland Zoning Districts. Where a Cluster Subdivision development abuts a waterbody, a useable portion of the shoreline, as well as reasonable access to it, shall be part of the common area. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the common area, with provisions made for continued public access.
   7. Site Details. The plan shall indicate the location of all proposed roads, structures, parking lots, footpaths, and common area.
   8. Soils. No building shall be constructed on soil types classified by the Soil Conservation Service as being poorly or very poorly drained.
   9. Water Supply. In cluster developments with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a common water supply and distribution system, either public or private.

10. Sewer System. In cluster developments with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system.
11. Design. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping.
12. Reservation, Dedication, and Maintenance of Common Area and Facilities. Cluster developments shall meet the requirements of the following Section 4.5.1(D).
13. Streets and Driveways. Cluster subdivisions shall follow street and driveway design standards as set forth in Section 4.3.27 of this Ordinance.
14. Limitations.
    i. A subdivision shall only be classified as one specialized subdivision from Sections 4.5.1-4.5.3 of this Ordinance.
    ii. If a project occurs on a lot with multiple zones, the average base density of the two zones will be used to determine the density post-application of cluster subdivision bonuses.

C. Reservation, Dedication, and Maintenance of Common Area and Facilities
    1. Reservation or Dedication of Common Area and Facilities. Common area and facilities shall be dedicated upon approval of the project, as a separate lot of record. There shall be no further subdivision of common area, which shall be used only for agriculture, conservation, or non-commercial recreation. Non-commercial recreation includes playgrounds, picnic grounds, community gardens, boat launching facilities, docks, natural trails, and other similar low-impact recreational facilities. However, easements for public utilities, or structures accessory to agriculture, non-commercial recreation, or conservation may be permitted. The only agricultural structures allowed would be a storage shed, greenhouse, or boundary structures for a community garden. The Planning Board shall consider the suitability of the common area for the proposed uses in determining what will be permitted. When the open space is to be owned by an entity other than a homeowner's association, there may be a conservation easement deeded to the Town or local land trust prohibiting future development.
    2. Notes to Be Included on Final Plan. The common area(s) shall be shown on the final approved development plan and with appropriate notation on the face thereof to indicate the following:
        i. That the common open space shall not be used for future building lots; and
        ii. The common area shall be maintained by the subdivider until development sufficient to support a homeowner's association, or similar entity, has taken place.
        iii. Covenants for mandatory membership in the Homeowner's Association.
        iv. A citation to the Homeowner's Association documents as containing additional rules and regulations within the subdivision.
    3. Ownership of Common Area. If common open space areas are not dedicated and accepted by the Town or by another entity approved by the Selectboard, the developer shall indicate whether these areas shall be owned, in part or totally, by the residents or retained by the developer.
    4. Retention of Common Area. If the developer retains any or all of the common area, the developer shall make provisions for permanent

maintenance of common areas. The Planning Board shall approve such provisions when it is satisfied that the provisions, proposed by the developer, will result in the common area continuing as such and being properly maintained. No building permit shall be issued until approval of the Planning Board has been given to the maintenance plan for the common area.

5. Rules Governing Homeowners' Associations. If any or all common area is to be reserved for ownership by the residents, a homeowner's association shall be formed and the by-laws of the proposed homeowner's association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to development plan approval. No building permit shall be issued until the Planning Board has approved the homeowner's association by-laws and the common area and facilities maintenance plan. A homeowner's association shall be governed according to the following regulations:
    i. The association shall be established by the developer and shall commence operation, with financial subsidization by the developer, if necessary, before the sale.
    ii. Membership in the association shall be mandatory for all purchasers of homes in the development and their successors. Covenants setting forth the owner's rights and interests and privileges in the association and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.
    iii. The association shall be responsible for maintenance of common area and property. It shall also be responsible for insurance and taxes on common open space and property.
    iv. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities, and Town assessments.

4.5.2 Attainable Housing Subdivisions.

A. Purpose. The purpose of an attainable housing subdivision is to encourage the development of high-quality neighborhoods and housing units attainable for rent or purchase as a primary residence by families and residents of the Town of Mount Desert making a moderate income. Attainable Housing subdivisions shall accomplish the following goals:
    1. Increase the availability of high-quality housing for purchase or rent by households of moderate income as defined in Section 8 of this Ordinance;
    2. Reduce economic stratification within the Town of Mount Desert; and
    3. Provide infrastructure to support a high quality of life for households and residents.

B. Basic Requirements.
    1. General. All the requirements and standards of this Ordinance shall apply, except as otherwise provided in this section.
    2. Density Bonus. For the purpose of calculating density for subdivisions that include attainable housing:

        a. The area of the entire parcel may be used (i.e. including wetland and steep slopes). Attainable housing will use the entire parcel. Density requirements and density bonuses for attainable housing shall be calculated from lines

(A) and (B) of the minimum lot size standards in the LUZO Dimensional Requirements Section 3.6.

b. Multiple Zoning Districts: If the parcel being subdivided is located in more than one zoning district, the overall density of the subdivision shall not exceed the average density requirements of the districts in which the subdivision is located.

c. Attainable Housing Density Bonuses: Projects that include covenants held by a qualified attainable housing entity may receive density bonuses as follows:

i. An increase of up to 50% in the gross residential density of the site may be permitted if at least 50% of the residential units are conveyed with covenants designed to benefit the creation and preservation of attainable housing.

ii. An increase of up to 75% in the gross residential density of the site may be permitted if 100% of the residential units are conveyed with covenants designed to benefit the creation and preservation of attainable housing.

4.5.3 Affordable Housing Subdivisions.

A. Purpose. This section promotes the development of high-quality housing within the community by providing bonuses and standards for Affordable Housing developments and subdivisions, as defined in Section 8 of this Ordinance, within the Town of Mount Desert that serve residents who qualify for affordable housing per 30-A M.R.S. § 4364.

B. Applicability. This section applies to Affordable Housing developments, as defined in this Ordinance that:
   1. Were approved on or after July 1, 2024;
   2. Designate 51% or more of the constructed units within the development as affordable housing;
   3. Affordable units within the development are restricted by covenant to remain affordable housing for at least 30 years from the date of completed construction, and said covenants are properly recorded in the Hancock County Registry of Deeds. These covenants must be reviewed and approved by the Planning Board; and
   4. Are constructed within a growth area of the Town where single family and multi-family housing is permitted;

C. Basic Requirements.

1. General. All the requirements and standards of this Ordinance shall apply, except as otherwise provided in this section, with specific attention to:

i. Shoreland Zoning. All shoreland zoning requirements are applicable to Affordable Housing projects.

ii. Subsurface Wastewater. Development lots shall meet the State minimum requirements for lot size when using subsurface wastewater disposal systems and will comply with the requirements of Section 4.3.6 of this Ordinance. Applicant shall provide provisions for the long-term maintenance, repair, and improvement of any septic system used within the development.

iii. Water Supply. The developer shall provide evidence that water capacity for the development is adequate per Section 4.3.3 of this Ordinance. Applicant shall provide provisions for the long-term maintenance, repair, and improvement of any water supply system used within the development.

D. Development Bonuses. If applicability requirements are determined to be met by the Planning Board, the Affordable Housing development qualifies for the following exceptions to zoning requirements:
   1. The number of units will be 2.5 times greater than the base density allowed for a development not designated as affordable housing within the same zone;
   2. The off-street parking requirements will allow for two parking spaces for every three dwelling units within the development; and
   3. Structures containing dwelling units within an Affordable Housing subdivision shall be given a 14 ft. height bonus added onto the base height maximum for the zone. If a property is within two zones, the average base height maximum between the two zones shall be used to determine the base height maximum prior to the bonus.

E. Limitations.
   1. A subdivision can only be classified as one specialized subdivision from Sections 4.5.1-4.5.3 of this Ordinance.
   2. If a project occurs on a lot with multiple zones, the average base density of the two zones will be used to determine the density post-application of Affordable Housing subdivision bonuses.

4.5.4 Mobile Home Parks.

A. Administration:

Except as otherwise provided below:

1. Mobile home parks shall comply with all applicable state laws and municipal ordinances and regulations, including the state subdivision law and the Land Use Zoning, Sewer, and Subdivision Ordinances of the Town of Mount Desert.
2. In addition to any other reviews that may be required, any proposed mobile home park development, expansion, or amendment shall be reviewed by the Planning Board for compliance with the requirements of this Section.
3. Whenever these provisions conflict with Shoreland Zoning requirements, the stricter requirement prevails.
4. No Mobile Home Park approved under this Section may be converted to another use without Planning Board approval and without meeting the appropriate zoning district dimensional and setback requirements. The subdivision plan for the Mobile Home Park development, expansion or amendment shall include the following note:

   "This subdivision plan is approved solely as a ‘Mobile Home Park’ as defined in 30- A M.R.S. Section 4358; the area of each lot of this subdivision is lawfully less than the minimum lot size otherwise required under the Town's Zoning Ordinance solely because of its status as a lot within a Mobile Home Park under unified ownership. If any or all the lots depicted upon this subdivision plan cease to be used as a Mobile Home Park, as so defined, this subdivision plan must first be revised to comply with the Town's then current land use ordinances."

B. Lot Size, Width and Density: Lots shall meet the following lot size, lot width and density requirements:

1. Lots served by public sewer:

    i. Minimum Lot Size- 5,000 square feet
    ii. Minimum Lot Width- 50 feet

2. Lots served by individual subsurface waste systems:

    i. i. Minimum Lot Size- 20,000 square feet
    ii. Minimum Lot Width- 100 feet

3. Lots served by centrally managed, on-site subsurface wastewater systems:

    i. Minimum Lot Size- 12,000 square feet
    ii. Minimum Lot Width- 75 feet

C. Project Size: The overall area of a Mobile Home Park shall not be required to be greater than the combined area of its Mobile Home Park Lots plus:

1. The area required for road rights of way;
2. The area required for buffer strips, if any;
3. For Mobile Home Parks served by a public sewer: An additional area for open green space, storage, or recreation, which additional area shall be ten percent (10%) of the combined area of the individual lots within a Mobile Home Park; and
4. Shoreland Zoning setbacks.

D. Lot Setbacks: Structures located on lots in a Mobile Home Park shall meet the following lot setback requirements:

1. For lots 12,000 square feet in area or larger, structures shall meet the following setbacks:
    i. Front setback 20 feet
    ii. Side setback 10 feet
    iii. Rear setback 10 feet
    iv. Carports of non-combustible materials are not subject to side yard setback requirements.

2. For lots less than 12,000 square feet in area, structures shall meet the following setbacks:

    i. Front setback 10 feet
    ii. Side setback 10 feet
    iii. Rear setback 10 feet

3. The Planning Board may allow the front setbacks on a private road within a Mobile Home Park to be varied provided that a minimum 10-foot front setback is maintained and the average front setback for all units on the private way is at least 20 feet.

4. A minimum twenty (20) foot separation shall be maintained between all mobile homes in all directions.

5. To provide more usable yard space on one side of the home, the Planning Board may allow the reduction of side yard setbacks to 5 feet provided that 20 feet is maintained between units and the cumulative side yard setbacks are at least 40 feet for lots more than 12,000 square feet and at least 20 feet for all other lots.

E. Individual Lot Standards:
   1. Individual developed lots shall not include any of the following:
      i. Any land area which is covered by water including lakes, ponds, Streams, Rivers, oceans, or intertidal areas.
      ii. Any land area identified as Freshwater or Coastal Wetlands as defined by the U.S. Army Corps of Engineers or by Title 38 of the M.R.S.
      iii. Any area of one or more contiguous acres with sustained slopes of 25% or more.
      iv. Any land located within utility easements or rights-of-way, if the restrictions preclude use of that land for development.
      v. Any land area identified as floodplain and important natural drainage areas and systems.
      vi. Any land identified as having soil that is very poorly drained in accordance with the classifications of the National Cooperative Soil Survey as defined in the most recent Soil Survey Manual of Hancock County, Maine, Soil Conservation Service.

   2. Lot Coverage: All structures on the lot, including mobile homes and accessory structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

   3. Landscaping: The development plan shall provide for adequate landscaping within the project. The Planning Board shall approve a plan which includes a plant listing of size and location and a maintenance plan shall be provided to ensure the upkeep of plants shown on the plan.

   4. Buffering: A twenty-five (25) foot wide buffer strip shall be provided along any mobile home park boundary that abuts land used or zoned for residential use if the per Acre density of homes within the Mobile Home Park is at least two times greater than:
      i. The density of residential development on immediately adjacent parcels of land, or
      ii. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable Municipal ordinances or state law.

   5. No structures, roads, utilities, or lots may be placed in the buffer strip, except that utilities may cross the buffer strip to provide services to the Mobile Home Park.

   6. Roads:
      i. Roads within a Mobile Home Park that are to be dedicated to the Town for acceptance as Town ways shall be designed and constructed in accordance

with the standards contained in the Town's Public Road Acceptance Ordinance;

ii. Roads within a Mobile Home Park that are to be privately owned roads shall be built according to acceptable engineering standards, shall be designed by a professional engineer registered in the State of Maine, and shall meet the following minimum design standards:

iii. Right of way width, up to 23 feet

iv. Width of paved traveled way, up to 20 feet

v. Paved width of one-way road, 14.5 feet

7. Utilities: Mobile Home Parks shall be exempt from needing to install utilities underground. The Town shall allow a developer to install utilities anywhere within the mobile home park.

8. Emergency Mobile Home Parks: In the event of a natural disaster or other unforeseen event similar in nature, there may be a need to quickly establish temporary housing for residents as they seek new permanent housing or for emergency response professionals. In such a case, an emergency mobile home park may be established on developable land in any zoning district within the Town and shall conform to the following provisions:

   i. The emergency mobile home park shall be exempt from dimensional requirements of this Ordinance;

   ii. An emergency mobile home park may be exempt from the road requirements of this Ordinance so long as there are travel ways for temporary use. These travel ways shall be approved by the Town Public Works Director, Police Chief, and Fire Chief;

   iii. An emergency mobile home park be exempt from Planning Board review, but must be inspected by the Code Enforcement Officer to ensure adequate water, septic and solid waste disposal, and building construction; and

   iv. Under no circumstances shall an emergency mobile home park be converted into a permanent mobile home park. An emergency mobile home park shall not stay erected for more than 18 months.

4.5.5 Functional Land Divisions. A functional land division is the division of a lot of land resulting in the distinct, separate, historical residential uses of the property into separate non-conforming lots. A functional land division into three (3) or more lots and upon each of which lots permanent dwelling units previously existed is not a subdivision. See LUZO Sections 2.3 and 4.10.

4.6 Waivers

A. Waivers Authorized. Where the Board makes written findings of fact that there are special circumstances of a particular tract or structure proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless otherwise indicated in these regulations or state statute, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Zoning Ordinance, or these regulations.

B. Conditions. When granting waivers to any of these regulations the Board may set conditions to ensure the purposes of these regulations are met.

C. Finding of Facts. Where the Board makes written findings of fact that due to special circumstances of a particular tract or structure proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or is inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to finding:
   1. The applicant has provided the Planning Board with a factual basis for granting the waiver that is supported by sound engineering and/or environmental analysis (cost considerations are not justification); and
   2. The waiver(s) do not have the effect of nullifying the intent and purpose of the zoning regulations or these subdivision regulations; or
   3. The performance standards of these regulations have been substantially met and the criteria of the subdivision statute have been or will be met by the proposed subdivision; and, appropriate conditions provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Zoning Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

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

4.7 Performance 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. Performance Guarantees shall be required only when public utilities are used.

A. Types of Performance Guarantees Accepted:
   1. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
   2. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officer, or Town Manager;
   3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or
   4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.
   5. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Public Works Director, Municipal Officers, and/or Town Attorney.

B. Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release 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.

C. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the 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.

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

E. Letter of Credit. An irrevocable letter of credit from a bank or other lending institutions 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.

F. 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 no more than four lots may be sold or built upon until either:

1. It is certified by the Board or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

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 this Section.

G. Release of Guarantees. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Registered Civil Engineer, the Code Enforcement Officer, and other agencies and departments 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.

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

I. Phasing of Development. The Planning Board may approve plans to develop a Major Subdivision, or other large development, in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed development street, or other improvement, 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.

4.8 Final Decision Procedures

The Board shall, within 30 days of the completion of a Final Plan Review public hearing, or within 60 days of having received a completed application, whichever is later, or within such other time

limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A, M.R.S., Section 4404, as amended, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider.

In issuing a negative decision, the Board shall make findings of fact establishing that the proposed subdivision does not meet the provisions of this Ordinance, Title 30-A, M.R.S. Section 4404, as amended, the Town's Comprehensive Plan, Land Use Zoning Ordinance, or other local laws.

Upon approval of the Application, the Board shall require the subdivider provide three paper copies of the Final Plan as approved. The Board shall sign all four copies. One copy shall be retained by the subdivider and one copy shall be retained by the Board/Code Enforcement Officer at the Town Office. A final paper copy shall be filed by the applicant with the Registry of Deeds, within 90 days of the date of approval. If this filing is not accomplished within 90 days, the subdivision plan and Board approval thereof shall be null and void and the project shall start at the beginning of the approval process.

Section 5 Enforcement

5.1 Beginning Construction

A. No utility installations, no ditching, grading or construction of roads, no grading of land or lots, and no construction of buildings shall be commenced on any part of the proposed subdivision until a Final Plan of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by this Ordinance, nor until an attested copy of the Final Plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds. Construction of improvements necessary to ensure compliance with requirements of the Subdivision Ordinance may be permitted upon written approval of the Planning Board and review by the Code Enforcement Officer.
B. An exception to Section 5.1(A) of this Ordinance may be granted in order to allow a subdivider to perform testing to collect more information as requested by the Board.
C. At least five days prior to commencing construction of required improvements, the subdivider shall:
    1. Notify the Code Enforcement Officer in writing, receive applicable permits, and give an approximate timetable for completion.
    2. Pay an inspection fee as shall be determined from time to time by the Selectboard.

5.2 Violations

A. Any violation of this Ordinance shall be deemed to be a nuisance.
B. If the Code Enforcement Officer finds that any provisions of this Ordinance have been violated, they shall notify by certified mail the property owner and such other person as may be responsible for the violation, indicating the nature of the violation and ordering the action necessary to correct.
C. The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance. The CEO may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this Ordinance. If consent is denied, he/she should obtain an administrative warrant before

entering the property. The CEO may revoke a permit after proper notification and a public hearing, if it was in error or if based on erroneous information.

D. The Town Attorney or Code Enforcement Officer with approval from the Selectboard, shall institute, in the name of the Town, any and all action, legal and equitable, that may be appropriate or necessary for the enforcement of the provisions of this Ordinance. Any person, firm or corporation owning or having control of any building or premises or part thereof who violates any provisions of this Ordinance, or fails to take the required corrective measures, shall be subject to the provisions of 30-A M.R.S., §4452 as the same shall be amended from time to time. Each day such violation exists shall constitute a separate offense.

5.3 Minor Amendments

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 Code Enforcement Officer is authorized to approve minor modifications due to, unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer 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 City. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall request on-site inspection and approval from the Review Board.

Section 6 Procedures Prior to Sale of Lots

A. Prior to the sale of any lot, the subdivider shall provide the Code Enforcement Officer with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

B. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or other third party as approved.

Section 7 Appeals

An aggrieved party may appeal any decision of the Board under these regulations to Hancock County Superior Court, within thirty days.

Section 8 Definitions

Notes:

1. All terms not herein and not defined, except as described in Note 2, or other cross reference described herein, shall be defined using the web-based version of Merriam-Webster's Collegiate Dictionary, at www.merriam-webster.com/dictionary.
2. For definitions concerning Shoreland Zoning, varying land uses, and other development terms not within this Ordinance, the definition within Land Use Zoning Ordinance, Section 8 shall be used.
3. Any reference herein to "LUZO" means the Town of Mount Desert Land Use Zoning Ordinance.

Abutting Property: Also includes abutters, or similar terms. Any lot that is physically contiguous with the lot in question even if only at a point, and any lot that is located directly across a public or private street or way from the lot in question. "Directly across" shall mean at least touched by a straight extension of the side property lines across said street or way.

Affordable Housing: Decent, safe, and sanitary dwelling units that meet the following criteria:

A. For rental housing, a development in which a household whose income does not exceed eighty percent (80%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, rent and utilities that are paid separately from the rent, e.g. electric, water, heat, sewer, trash, etc.).
B. For owned housing, a development in which a household whose income does not exceed one hundred twenty percent (120%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, mortgage, mortgage and homeowner's insurance, real estate taxes, and homeowner association fees). For the purposes of this definition, "majority" means 51% or more of available units within a development or on the same lot.

   For the purposes of this definition, "area median income" means income that is at the midpoint of the Hancock County Area excluding HMFA income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development.

   See Development Standards and Bonuses for Specialized Subdivisions in Section 4.5.3 of this Ordinance.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of a permit or waiver under this Ordinance; a person whose land abuts land for which a permit or waiver has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or waiver.

Attainable Housing: Decent, safe, and sanitary dwelling units that meet the following criteria:

A. For rental housing, a development in which a household whose income does not exceed two hundred fifty percent (250%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, rent and utilities that are paid separately from the rent, e.g. electric, water, heat, sewer, trash, etc.).
B. For owned housing, a development in which a household whose income does not exceed two hundred fifty percent (250%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as amended, can afford a majority of the units without spending more than thirty percent (30%) of the household's monthly income on housing costs (including, but not limited to, mortgage, mortgage and homeowner's insurance, real estate taxes, and homeowner association fees). For the purposes of this definition, "majority" means 51 % or more of available units within a development or on the same lot.

For the purposes of this definition, “area median income” means income that is at the midpoint of the Hancock County Area excluding HMFA income distribution calculated on an annual basis by the U.S. Department of Housing and Urban Development.

See Development Standards and Bonuses for Specialized Subdivisions in Section 4.5.2 of this Ordinance.

Authorized Agent: An individual or a firm having written authorization to act on behalf of an applicant or aggrieved party. The authorization shall be signed by the property owner(s)

Buffer, Vegetated: A strip of land with natural or planted vegetation located between a structure and a side a rear property line intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.

Building: Any structure having a roof or partial roof supported by columns or walls and which is used for the shelter or enclosure of persons, animals, goods or property of any kind.

Carport: A structure consisting of a roof and supports that is open on at least two sides used for the storage of a vehicle at the end of a driveway. The structure can be attached to a dwelling unit or free standing and must be made of non-combustible materials.

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 of permanent common area owned in common by lot unit owners, the developer, the Town, or a land conservation organization.

Code Enforcement Officer: A person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer shall include the Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

Common Area: The portion of a specialized subdivision that is set aside from the lots developed for residential use and is planned for a shared, not for profit, space or facility to serve the residents of that subdivision.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance as determined by the Code Enforcement Officer, a vote of the Planning Board, or by a vote of the Planning Board to waive the submission of required information.

Complete Substantial Construction: The completion of a portion of the improvements which represents no less than 30% of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.

Developable Land: All land in Mount Desert shall be considered developable, except:

a) Any area of one or more contiguous acres with sustained slopes of 25% or more.

b) Any land area identified as floodplain and important natural drainage areas and systems.
c) Any land identified as having soil that is very poorly drained in accordance with the classifications of the National Cooperative Soil Survey as defined in the most recent Soil Survey Manual of Hancock County, Maine, Soil Conservation Service.
d) Any land determined to be unsuitable for development as determined by the Town or the State for reasons not covered here.

Development: Uses including but not limited to the construction of a new building or other structures on a lot or below the shoreline or in a wetland, the relocation of an existing building on another lot, or the use of open land for a new use; any man-made change to improved or unimproved real estate, including but not limited to parking, temporary uses, clearing of land or vegetation, mining, dredging, filling, grading, paving, excavation, or drilling operations; it includes a building, a development site under the same ownership, a consolidated development, and phased development.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, and height. *See* LUZO Section 3.5.

Dwelling Unit: A room or group of rooms, used primarily as living quarters for one family, and that includes provisions for living, bathing and hygiene, sleeping, and cooking. The term shall not include hotel or motel rooms or suites, rooming house rooms, or similar accommodations. Includes single-family houses, the units in a duplex, apartment units, multi-family dwellings, residential condominiums, manufactured homes, mobile homes, and rental units that contain provisions for living, bathing and hygiene, sleeping, and cooking regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

For definitions on different types of dwelling units, *see* LUZO Section 8.

Family: One or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, or other transient visitor quarters. A family shall not exceed five persons not related by blood or marriage.

Floodplain: Any land area susceptible to being inundated by flood waters from any source. *See* the Town of Mount Desert Floodplain Ordinance.

Floor Area: The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Footprint: Exterior outline of the buildings. The entire area of ground covered by the structure(s) on a lot. All dimensions shall be measured between exterior faces of walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks and cantilevered or similar overhanging extensions.

Freshwater Wetland: Freshwater swamps, marshes, bogs, and similar areas, other than forested wetlands, which are:
a) Of ten or more contiguous acres, or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

b) Inundated or saturated by surface or ground water at a frequency and for duration sufficient to support, and which under normal circumstances do 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 definition

Functional Land Division: A functional land division is the division of a lot of land into the distinct, separate, historical residential uses of the property into separate non-conforming lots. *See* LUZO Section 4.6.

Great Pond: Any inland body of water that, in a natural state, has a surface area more than 10 acres and any inland body of water artificially formed or increased that has a surface area more than 30 acres except, for the purposes of this Ordinance, where the artificially formed or increased inland body of water is fully encompassed by land held in the name of a single owner.

Lot Area: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Parcel: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road. This term shall also include "tract."

Primary Residence: A dwelling unit meant to be lived in by one family for at least six months out of the year.

Road: A public or private way including but not limited to roads, alley, and other rights- of-way for vehicular and/or pedestrian use. This term is interchangeable with "street."

Road Standard Review: When the development of a lot involves access over a private road that will serve more than 2 lots, such development may be submitted for approval as a Road Standard Review, provided that the development does not otherwise require approval as a Subdivision.

Street: *See* "Road."

Structure:
Whether temporary or permanent:
Anything located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind; anything built, constructed or erected on or in the ground. The term structure includes structures such as decks, patios, and satellite dishes. Structure does not include fences, poles, wiring, guy wires, guy anchors, and other aerial equipment normally associated with service drops, subsurface waste water disposal systems as defined in 30-A, M.R.S. §4201.5, geothermal heat exchange wells as defined in 32 M.R.S. §4700-E.3-C, and wells or water wells as defined in 32 M.R.S. §4700-E.8.

A permanent structure is one that is intended to remain in place for a period of more than 180 days in any consecutive 12-month period.

A temporary structure is one that does not meet the definition of permanent.

Subdivider: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that undertakes the activities governed by this Ordinance. The term "subdivider" is intended to include the term "developer," "owner," and other similar terms.

Subdivision: A subdivision is defined as per Title 30, M.R.S. §4401.4, and any future amendments thereof.

Subdivision, Affordable Housing: A division of land or structure that meets the definitions of "Subdivision" and "Affordable Housing" as defined by this Ordinance.

See Development Standards and Bonuses for Specialized Subdivisions in Section 4.5.3 of this Ordinance.

Subdivision, Attainable Housing: A division of land or structure that meets the definitions of "Subdivision" and "Attainable Housing" as defined by this Ordinance.

See Development Standards and Bonuses for Specialized Subdivisions in Section 4.5.2 of this Ordinance.

Subdivision, Cluster: 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 of permanent open space owned in common by lot unit owners, the Town, or a land conservation organization.

See Development Standards and Bonuses for Specialized Subdivisions in Section 4.5.1 of this Ordinance.

Subsurface Sewage Disposal System: Any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Tract: *See* "Parcel."