TOWN OF PHILLIPS, MAINE

SUBDIVISION ORDINANCE

Adopted
October 23, 2008

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Town of Phillips, Maine
Subdivision Ordinance

SECTION I. Purpose

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

SECTION II. Authority and Administration

A. Authority

1. This Ordinance is adopted pursuant to Article VIII, Part 2, Section 1 of the Maine Constitution, Title 30-A M.R.S.A. Section 3001 and Title 30-A M.R.S.A. Section 4403.2.

2. This Ordinance shall be known and cited as the Town of Phillips, Maine Subdivision Ordinance.

B. Administration

1. This Ordinance shall be administered by the Planning Board for the Town of Phillips, Maine, hereafter referred to as the Board.

2. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Phillips, Maine.

3. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not received Board approval and recorded in the Registry of Deeds. No public utility, water district, or any utility company of any kind shall install services to any lot in a subdivision which has not received Board approval and recorded in the Registry of Deeds. A Subdivision Plan recorded without Board approval shall be void.

   Any person violating any provision of this Ordinance shall be fined a minimum of $100 and a maximum of $2,500 for each violation. Each day a violation exists shall be considered as a separate violation.

4. Construction Prohibited

Utility installations, ditching, grading or construction of roads, grading of land or lots, or construction of buildings shall not be started on any part of the proposed subdivision until the Final Plan has been approved and recorded in the Franklin County Registry of Deeds.

SECTION III. Pre-application Meeting

Applicants shall schedule a meeting with the Board prior to formal submission, to present a sketch plan and make a verbal presentation regarding the site and the proposed subdivision.

A. Submissions

The Pre-application Sketch Plan shall show, in simple sketch form, the proposed development area, lot numbering system, proposed road name and other features in relation to existing conditions. The Sketch Plan, which may be a freehand pencilled sketch, will be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.

When a proposed subdivision will encompass 20 acres or more or 10 or more lots, the applicant shall submit sketch plans of both a traditional subdivision layout and open space subdivision layout. The sketch plan shall be accompanied by a written narrative of the advantages and disadvantages of both subdivision techniques in relation to the particular site.

The sketch plan for an open space subdivision will show how the following applicable provisions will be incorporated in subdivision design.

1. The desire to manage development so that Phillips's valued characteristics including large tracts of forest land, surface waters, scenic views, natural resources, rural road corridors and open spaces are maintained;

2. The desire that the type and location of development be compatible with municipal services including the transportation system; and

3. The parcels unique features that may include but not be limited to agricultural land, forest land, fields, ridges, stone walls, tree lines, streams, wetlands, wildlife habitat, and scenic views and how such features will be conserved and integrated into the subdivision design.

The Board shall within thirty (30) days of receiving the sketch plans, inform the applicant of the type of subdivision that will be developed (traditional or open space) based on the intent of the comprehensive plan and the nature of the site.

B. Contour Interval and On-Site Inspection

Within thirty (30) days of the pre-application meeting, the Board shall determine and inform the applicant, in writing, of the required contour interval on the development plan and conduct an on-site inspection of the property. The Board shall base the required contour interval on the slope of the land, drainage characteristic, size of lots and if roads are to be constructed.

C. Ownership Interest

The applicant will furnish written evidence showing right, title or interest (option, contract for sale, etc.) in the property to be developed to the Board.

SECTION IV. Preliminary Plan

A. The applicant shall submit ten (10) copies of the Preliminary Plan and ten (10) copies of the application for the proposed subdivision as detailed in Section VI. ***A and B*** to the Town Office fourteen (14) days prior to the Board meeting. The Board shall forward copies to the Code Enforcement Officer, Board of Selectmen, Fire Chief, Road Commissioner and Superintendent of Schools for review and comment. The Board shall issue a dated receipt to the applicant at the meeting the application is received. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Preliminary Plan and application are complete, or if incomplete, the specific additional material needed to make them complete. Determination by the Board that the Preliminary Plan and Application are complete in no way commits or binds the Board as to the adequacy of the Plan to meet the criteria of Title 30-A, M.R.S.A., Section 4404, and the provisions of this Ordinance are met.

B. Upon receipt of the Preliminary Plan, the Board shall notify in writing all owners of property within 500 feet to the proposed subdivision by mail.

C. Application Fee

The following fee(s) shall be paid at the time of submission of any preliminary plan:

1. Review fee, $100.00 per lot or dwelling unit.

2. Review escrow account, $150.00 per lot (or dwelling unit for multiplex development(s) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer-s application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. If the balance in the applicant's portion of the Board Review Escrow Account shall be drawn down by 75%, the Board shall require that an additional $50.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional $50.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down to 75% of the original deposit.

Those monies deposited by the developer and not spent by the Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

D. The Board may hold a public hearing on the Preliminary Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

E. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received the complete Preliminary Plan and application, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant 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.A., Section 4404, and to preserve the public health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Board shall make a written finding of fact establishing that the Preliminary Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

SECTION V. Final Plan

A. The applicant shall submit two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office and three copies of the Final Plan to the Board at a regularly scheduled meeting within one (1) year from the date of approval of the Preliminary Plan. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. The Board shall issue a dated receipt to the applicant at the meeting the application is received. The Final Plan shall include all the information requested in Section VI.B. and will also include all changes recommended by the Board in their approval of the Preliminary Plan. There shall be no other substantial changes between the Preliminary Plan and the Final Plan. The Final Plan shall be drawn in ink on linen or polyester film suitable for permanent recording in the Franklin County Registry of Deeds.

B. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Final Plan and application are complete, or if incomplete, the specific additional material needed to make them complete.

C. The Board has the option of holding a public hearing on the Final Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

D. The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the complete Final Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval of the Final Plan or grant 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.A., Section 4404, and to preserve the public health, safety, and general welfare.

In issuing its decision, the Board shall make a written finding of fact establishing that the Final Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404.

SECTION VI. Submission Requirements

A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information: (Items marked with an X shall be required in all instances; items without an X may be required at the discretion of the Board.)

__X__ 1. Name and address of owner.

__X__ 2. Name and address of applicant (if other than owner).

__X__ 3. If the applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State=s Registration.

__X__ 4. Name of applicant=s authorized representative.

__X__ 5. Name, address and number of Licensed Professional Engineer, Professional Land Surveyor or Planner who prepared the plan.

__X__ 6. Address to which all correspondence from the Board should be sent.

__X__ 7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, recorded ownership, etc.)?

__X__ 8. What interest does the applicant have in any property abutting the parcel to the subdivided?

__X__ 9. State whether the subdivision covers the entire or contiguous holdings of applicant.

__X__ 10. Location of property: book and page (from Registry of Deeds).

__X__ 11. Location of property: map and lot (from Assessor=s Office).

__X__ 12. Current zoning of property.

__X__ 13. Acreage of parcel to be subdivided.

__X__ 14. Proposed method of sewage disposal and the results of an on-site soil investigation for each lot.

_____ 15. Soils report for entire area.

__X__ 16. Indication of type of water supply to be used. Evidence of adequate ground water supply and quantity shall be submitted by a well driller or a hydrogeologist familiar with the area if individual well will be used.

__X__ 17. Names and mailing address of all property owners within 500 feet of the proposed subdivision including those across any road or street.

__X__ 18. Proposed restrictive covenants to be placed on the deeds.

__X__ 19. A statement of financial and technical capability.

__X__ 20. A written statement from the Fire Chief and Road Commissioner as to the departments capacity to serve the proposed subdivision along with their recommendations as to any improvements necessary to provide for fire protection.

_____ 21. A phosphorus impact analysis and control plan when located in the direct water shed of a Beaver, Long Cove, Lufkin, Mud, Stetson or Toothaker Ponds or Webb Lake.

_____ 22. A ground water impact analysis

_____ 23. The applicant shall provide a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town of Phillips or quasi-municipal districts. This list shall include but not be limited to: schools including busing; street reconstruction, maintenance, and snow removal; solid waste disposal; and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation upon build out of the subdivision.

_____ 24. Stormwater control plan designed to accommodate the 25-year storm.

_____ 25. Maine Department of Transportation Driveway/Entrance Permits if the subdivision will have access to a State Route or State Aid Road.

_____ 26. Other local, state or Federal permits as required.

___X___ 27. A statement concerning timber harvesting resulting in any violation of the Liquidation Harvesting Rule.

_____ 28. Waivers requested accompanied by reasons and justification.

B. Subdivision Plan

The Subdivision Plan shall be a map of the tract to be subdivided, certified by a Professional Land Surveyor and tied to established reference points. The plan shall not be less than 18" by 24" and shall be drawn to a scale of 1" equals not more than 100'. The Subdivision Plan shall include the following information: (Items marked with an X shall be required in all instances; items without an X may be required at the discretion of the Board.)

	Preliminary Plan	**Final Plan**	
1.	X	X	Name of proposed subdivision; location of subdivision; name of subdivider; and signature and seal of Professional Land Surveyor.
2.	X	X	Lot numbers.
3.	X	X	Date, magnetic north point and graphic map scale.
4.	X	___	Proposed lot lines with approximate dimension and lots areas and total area of land to be subdivided.
5.	___	X	Proposed lot lines with dimensions, bearings, deflection angles, radii and central angles sufficient to reproduce any line on the ground and lot areas and total area of land to be subdivided.
6.	X	___	Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.
7.	___	X	Location of permanent markers, both natural and man-made.
8.	X	X	Location of all parcels to be dedicated to public use and the conditions of such dedication.
9.	X	X	Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number.
10.	X	X	Location of wetlands and if any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazards areas and the 100-year flood elevation shall be delineated on the plan.
11.	X	___	Location of all required soils investigation test pits. (Test pits for subsurface sewage disposal systems shall be in the area where such a system would likely be placed.
12.	X	X	Location and size of existing buildings.

13.	___	___	Suggested location of building envelopes, driveways, subsurface sewage disposal systems and wells.
14.	___	___	Location of all natural features or site elements to be preserved.
15.	X	X	Location of any existing watercourses and other essential existing physical features.
16.	___	___	Location and size of any existing water mains and other utilities; location and size of culverts and drains.
17.	X	X	Location, names and widths of existing and proposed streets, highways, easements and rights-of-way.
18.	___	X	Plan profiles and cross-sections for roadways, sidewalks and storm drainage facilities.
19	___	X	Lines or dots in the centerline of the proposed road at intervals of every fifty (50) feet beginning at the intersection with the existing street to aid in the assignment of numbers to structures subsequently constructed.
20.	X	X	The size, type and location of electric lines and other utilities.
21.	X	X	A soil erosion and sediment control plan for construction and for permanent control.
22.	___	___	Contour lines at 10-foot intervals (or other interval as specified by the Board).
23.	___	___	Other information not indicated above as required by the Board.
24.	X	X	The location and nature of significant wildlife habitats identified by the Maine Department of Inland Fisheries and Wildlife.
25.	X	X	Any portion of the subdivision which is located in the direct watershed of a great pond shall be identified.
26.	____	____	The location of archaeological and historic sites, scenic areas as identified in the Comprehensive Plan and rare and natural areas.
27.	X	X	Suitable space to record on the approved plan, the date and conditions of approval, if any. This space shall be similar to the following example:

Approved by the Town of Phillips Planning Board:

Signed: _____

_____

_____

_____

_____

_____

_____

Date: _____

Conditions: _____

_____

_____

_____

SECTION VII. Public Hearing

The decision to hold a public hearing is discretionary, and in making its decision, the Board may consider the size and type of subdivision, the community impact and whether any written requests for such a hearing have been received.

In the event that the Board determines to hold a public hearing on either the Preliminary Plan or the Final Plan of the proposed subdivision, it shall hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete Subdivision Plan has been received and shall cause notice of the date, time and place of such hearing to be given to the subdivider, and published in a newspaper of general circulation in Phillips at least two (2) times; the date of the first publication shall be at least seven (7) days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A M.R.S.A., Section 2691, Subsection 3 a, b, c, d, and e. The Board shall notify all property owners within five-hundred (500) feet of the boundaries of the Public Hearing.

SECTION VIII. General Requirements

A. Buffer Strips

The Board may require buffer strips, to protect water bodies and streams from sedimentation, to provide space for movement of wildlife between important habitats and to shield adjacent users from unsightly development, noise and lighting. The Board will consider the following in establishing audio/visual buffer strips.

1. Plant materials shall be a least four feet in height and be of such evergreen species that will produce ultimately a dense audio/visual screen at least eight feet in height. Alternatively, a six-foot high wooden fence, without openings wider than 1", may be substituted.

2. The buffer will be maintained permanently, and any plant material which does not live shall be replaced within one year.
3. The plantings of the buffer shall be so placed that at maturity it will be no closer than three

feet from any street or property line.

4. The buffer will be broken only at points of vehicular/ pedestrian access. When the buffer is broken by pedestrian access it shall be designed to not allow direct visual access to the adjacent property.

B. Conformance with Other Laws, Regulations

The proposed subdivision shall be in conformance with all pertinent local, state, and federal ordinances, statutes, laws, and regulations. If any proposed subdivision meets the definition of a subdivision as defined in the Site Location of Development Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Board before any construction activity may begin in the subdivision.

C. Impact on Community Services and Facilities

Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities. When the Board finds, based on a recommendation of the selectmen and the results of any municipal impact analysis, that municipal services do not have the capacity to provide services to the proposed subdivision, the Board will require one or more of the following.

1. A voluntary payment to the Town of Phillips to mitigate the direct impact to municipal services that has been identified as the consequence of the proposed subdivision. Any such payment shall be subject to the following provisions.

   a. The Board, with advice from the Selectmen, shall find that the money offered will mitigate the identified direct impact of the subdivision.

   b. The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed to by the applicant and Board to mitigate the identified direct impacts.

   c. The payment in all cases shall be expended within five years of collection, unless otherwise agreed upon the Board and applicant.

   d. Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Phillips for the period the payment was held by the Town.

2. The applicant will construct or pay to construct his proportional share, as determined by any municipal impact analysis, required improvements necessitated by the subdivision.

3. Require phasing of the subdivision or limiting the number of lots that can be developed at any one time to allow the expansion of municipal services over time.

4. Deny the Subdivision.

D. Lots

1. Lot sizes shall be in conformance with the following dimensional requirements:

   a. Conform to the Zoning District Requirements.

   b. Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one.

   c. Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which the subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.

2. When lots will be in wooded locations the Board, with advice of the Fire Chief, shall require building envelops that will provide defensible space against forest fires.

3. When lots have frontage on the Sandy River the subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

   a. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

   b. The frontage and set-back provisions of this section do not apply within areas zoned General Purpose in the Zoning Ordinance of the Town of Phillips Maine.

E. Lot Access

Any proposed subdivision shall be so designed that every lot has access to a public or privately owned street.

F. Open Space Provisions

1. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.

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

   a. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.

   b. Included in the instrument of conveyance (deed) to each property owner of the subdivision shall be a statement of:

      1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.

2) If appropriate, the individual property owner=s pro rata share of development costs, maintenance cost and property taxes of the reserved land.

c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for later development if the Subdivision Plan includes provision for development in discrete stages.

d. Any area designated for common use shall be so arranged that each property owner has access to it.

G. Open Space Subdivisions

1. It is the policy of the Town of Phillips to encourage the development of open space subdivisions in order to preserve a sense of space, provide for, forestry, and recreational land uses, preserve other resources identified in the Town of Phillips Comprehensive Plan, and blend new development with the traditional open and wooded landscapes of Phillips.

   This standard is intended to implement that policy by providing incentives that afford flexibility in road and lot layout and design and road frontage requirements to the landowner. It also allows the Board to waive or reduce certain otherwise applicable standards and provisions of this Ordinance and other Town of Phillips Ordinances if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to development and environmental design which will promote the most appropriate use of land, preservation of permanent open space, or forest land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents will be accomplished.

2. An open space subdivision achieves the purposes of this performance standard by reducing the lot size, frontage and setback requirements. It locates structures and accompanying uses in those areas where they have the smallest impact on identified environmental, wildlife, forest, and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions or conservation easements.

3. An applicant may apply for approval of an open space subdivision either after sketch plan review of a conventional subdivision or by initially filing an application for an open space subdivision. In either case, the Board shall review the application in accordance with Title 30-A M.R.S.A. Section 4404 and this Ordinance.

   a. Pre-application Procedure

      Any applicant for a subdivision with open space is encouraged, but not required, to submit at the pre-application stage a complete build out plan for the entire parcel.

   b. Application Procedure

      Required Plans: The submissions for a subdivision with open space shall include all plans and materials required for a conventional subdivision under this Ordinance.

   c. General Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance and other Town of Phillips Ordinances.

4. General Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Ordinance.

a. Allowable density shall be based in the following manner: Determine the buildable acreage of the parcel by taking the total area of the parcel and subtracting in order the following:

(1). area in proposed rights-of-way;
(2). area of two or more contiguous acres with sustained slopes of 20% and greater;
(3). area of the lot covered by surface waters.

Then divide the buildable area by the minimum lot size required. A minimum of 50% of the buildable area must be designated as open space.

5. Layout and Siting Standards

In planning the location and siting of residential structures in a subdivision with open space, priority should be given to the preservation of the open space for its natural resource value. Human habitation activity should be located and sited such as it maximizes the valuable natural resource portion of a parcel, taking into account the contours of the land and the steepness of slopes.

The building lots on a parcel shall be laid out and the residential structures shall be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

a. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved;

b. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;

c. In such manner that the boundaries between residential lots and agricultural and forest land, and/or wildlife habitats are well-buffered by vegetation, topography, roads or other barriers in order to minimize potential conflict between residential and agricultural and forestry uses.

d. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for site development.

6. Space Standards

a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required Shoreland Zoning Standards.

b. Distances between residential structures shall be a minimum of the height of the tallest adjacent structure.

c. The required minimum land area per dwelling unit for the building envelope shall be 20,000 square feet. The building envelope shall contain a minimum of 20,000 square feet of land area which does not include 100 year floodplains, areas of two or more acres of sustained slopes greater than 20 percent, or wetlands as defined by the Natural Resource Protection Act

d. Minimum road frontage requirements may be waived or modified by the Board provided that:

(1) Any applicable provisions regarding roads in Subsection 7 below are satisfied; and

(2) No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

(3) Adequate access and turnaround to and from all parcels and/or structures by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and/or common driveways; and

e. A reduction of required setback distances may be allowed at the discretion of the Board, based upon the public benefits to be achieved from the design provided that the front and rear setbacks shall be no less than that required for the applicable Zoning District, For the perimeter of a subdivision with open space the overall development setback shall not be reduced below the minimum front, side and rear setbacks required in the Zoning District unless the Board determines a more effective design of the project can better accomplish the purposes of this performance standard. The reduction in required setbacks by the Board shall not be considered as a variance as provided for in Title 30-A MRSA Section 4353.4-C.

7. Roads

Roads in subdivisions with open space may be either public or private. Public roads shall comply with all the requirements for Public streets. The Board shall require private roads and common driveways to comply with the design standards public streets, except as provided in Subsection 7.a and b below.

a. Travelways and shoulders of privately-owned roads and common driveways within open space subdivisions shall meet the following minimums:

(1) Common driveways serving 2 or fewer dwelling units: 12 foot travel way.
(2) Roads serving 3 to 10 units: 16 foot travel way and 3 foot shoulders.
(3) Roads serving 11 to 50 units: 20 foot travel way and 3 foot shoulders.

b. Cul-de-sacs

Any private road open at one end only shall have a special turning area at the closed end. The minimum turning radius of any cul-de-sac shall accommodate the minimum turning radius of fire apparatus owned by the Town of Phillips or 45 feet whichever is greater. Cul-

de-sacs shall be circular only, with or without an island. Turn arounds that are L-type, T-type, Y-type, or branches shall not be used unless the street serves two or less dwellings."

8. Open Space Requirements

In Board review and approval of a subdivision with open space, the following requirements shall apply and shall supersede any inconsistent or more restrictive provision of this Ordinance.

Open space set aside in an open space subdivision shall be permanently preserved as required by this section except where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to Section 8.b. below and provided that the Planning Board approves such configuration of the open space.

a. Open Space Uses. On all parcels, open space uses shall be appropriate to the site. Open space should include natural features located on the parcel(s) such as, but not limited to, forested land and wildlife habitat. Open space shall be preserved and maintained subject to the following, as applicable:

(1) On parcels that contain significant portions of land suited to commercial forestry or agriculture, open space shall be preserved for forestry or agriculture, other compatible open space uses such as wildlife habitat, recreation (active or passive), and resource conservation.

(2). When the principal purpose of preserving portions of the open space is the protection of natural resources such as wetlands, steep slopes, wildlife habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.

3). Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town.

4). The use of any open space may be limited by the Board at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.

5). Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities and subsurface wastewater disposal systems, shall be prohibited and shall be so stated by deed restrictions except as provided in section 9.b. below.

b. Notations on Plan. Open space, common lands, roads or facilities must be clearly labeled on the final plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof.

The plan shall clearly show that the open space land is permanently reserved for open space purposes, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations.

c. Ownership of Open Space Land. Open space land may be held in private ownership; or owned in common by a Homeowners' Association (HOA); transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Board; or held in such other form of ownership as the Board finds adequate to achieve the purposes set forth in section. The Board shall, in its review, require as a condition of approval provisions for the ongoing maintenance and associated costs for such maintenance of the open space.

9. Homeowners' Associations or Agreements

Where any portion of a subdivision is proposed or required to be held in common by owners of lots, or owned in common by a Homeowners' Association (HOA) or similar entity, covenants for mandatory membership in the association setting forth the owners' rights, interest, privileges, responsibilities for maintenance, and obligations in the association and the common land, road or open space shall be approved by the Board and included in the deed for each lot or dwelling unit.

10. Maintenance Standards

a. Ongoing maintenance standards, where appropriate, shall be established, enforceable by the Town against the owner(s) of common land, including open space land, roads and other facilities as a condition of subdivision approval. Such maintenance standards may include such conditions, obligations, or costs to maintain their use, facilities and/or scenic character.

b. The owner(s) of common land or facilities including open space lands shall have the responsibility of operation and maintenance of the respective neighborhood recreational facilities within such common land(s), unless such lands or facilities or portions thereof are deeded or transferred to the Town of Phillips and accepted by the citizens of the Town at Town Meeting, or unless an approved conservation easement or declaration of covenants and restrictions is established which assigns maintenance responsibilities to another party.

c. If a HOA or an agreement of owners of the lots or units is to be used, until 51% of all lots and/or units have been sold, and a homeowners association has been formally organized, the applicant for such development shall be responsible for maintenance of the common lands and facilities.

H. Storm Drainage

Adequate provision shall be made for disposal of all storm water generated within the subdivision through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm.
2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to

reduce storm water velocity.

3. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

4. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

I. Erosion and Sedimentation Control

Erosion soil and sedimentation of watercourse and water bodies shall be minimized. The following measures shall be included, where applicable, as part of subdivision review and approval.

1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.

2 Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.

3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.

4. Disturbed soils shall be stabilized as quickly as practical. Temporary mulch will be placed on all disturbed areas where seeding or other construction or stabilization activities will not take place for over 14 consecutive days.

5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.

6. The permanent (final) vegetation and structural erosion control measure shall be installed in the time periods contained in the erosion and sediment control plan.

7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.

8. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense.

9. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

10. The standards set forth in the Maine Erosion and Sediment Control Handbook for

Construction, Best Management Practices (March 1991 and as amended) shall be employed.

J. Streets and Roads

1. Off site streets serving a proposed subdivision shall be in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision. In making a determination that off site streets serving a proposed subdivision are in such condition and have the capacity to safely carry the traffic associated with the proposed subdivision the Board shall consider the following.

   a. Subdivisions that will gain access via public streets or public easements closed to winter maintenance shall be prohibited unless the subdivider shall finance the cost of the necessary improvements to make the street or public easement suitable for winter maintenance. Such improvements shall be made by the Town or a contractor selected by the Town. The Board shall base the needed improvements upon the recommendation of the Inspecting Official.

   b. Subdivisions that will gain access via public roads or private roads that are deemed by the Inspecting Official not to have adequate capacity to carry traffic associated with the proposed subdivision shall be prohibited unless the subdivider undertakes the necessary improvements to make the street suitable for the anticipated traffic. In determining adequate capacity the inspecting Official shall consider provisions for two way traffic, safe access by emergency vehicles and all season use. The Board shall base needed improvements to provide adequate capacity upon the recommendation of the Inspecting Official. This Section shall not be interpreted to require improvements to comply with Section VIII.J.2.

2. The design of proposed streets shall be in harmony and conformance with existing and proposed streets. Street patterns shall give due consideration to contours and natural features. Every proposed street whether to be offered for town acceptance or to remain private shall be laid out and constructed as required by the following.

   a. **Existing Street Extended:** Existing streets shall be extended at the same or greater width and in no case shall they be extended at less than the original width.

   b. **Street Names:** Street names and numbers to lots require the approval of the Board. Prior to approving the street name and numbers to lots the Board shall consult with the E-911 coordinator. Streets that are obviously in alignment with streets already existing and named, shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.

   c. **Intersections:** All street intersections shall be at angles as close to ninety (90□) degrees as possible. In no instances shall street intersections be at an angle less than sixty (60□) degrees.

   d. **Curb Line Radius:** The curb line radius at street intersections shall be at least 25 feet. Where the angle of the street intersects is less than ninety (90□) degrees, a longer radius may be required.

   e. **Dead-end or Cul-de-sac Streets:** Dead-end or cul-de-sac streets shall be provided at the closed end with a turn-around having a property line radius of at least 60 feet with an outside pavement radius of at least 40 feet.

f. **Drainage:** Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrains, and/or storm water drainage systems. Provisions must be made for natural watercourses.

g. **Catch Basins:** Catch basins (of standard design) shall be built where necessary and culverts of proper size and capacity will be installed at all watercourses with necessary headers.

h. **Slopes and Ditches:** Slopes and ditches shall slope away from the shoulders of the road at a ratio of at least three (3) horizontal feet to one (1) vertical foot and never steeper than 2 to 1. In cases where this is not possible or practical as where the roadway cuts through the side of a hill, all cuts shall be made so that adjacent slopes will not slide. The tops and sides of all cuts shall be cleared of all trees, stumps and boulders for an adequate distance to as to prevent such material from sliding into the ditches. Banks will be loamed, seeded, and mulched.

i. **Driveway Entrances:** Subdivisions with lots fronting on existing arterial and collection streets shall minimize the number of driveways entering such streets. The Board shall require shared driveways, marginal access streets or other acceptable technique to minimize the number of driveway entrances upon such streets.

j. **Intersections**: Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 2 feet above the pavement and the height of object 4 1/4 feet.

Posted/Legal Speed Limit (MPH)	25	30	35	40	45	50
Sight Distance (Feet)	155	200	305	360	425	495

3. **Construction Standards:** Street shall be constructed in accordance with the Town of Phillips Street Construction Standards.

4. **Privately-Owned Roads:** Where subdivision roads are to remain private roads, the following will be met in addition to the design standards above.

a. **Maintenance.** The subdivider shall demonstrate to the satisfaction of the Board that the private road will be properly maintained. The subdivider shall provide the proposed Road Owners Association Bylaws that defines the minimum requirements for road maintenance and how cost will be shared among the lot owners.

b. **Deed Restriction.** The subdivider shall cause each property deed to clearly state that the road is a private road, and the Town of Phillips will not be responsible for maintaining or plowing.

c. **Plan Condition.** The recorded subdivision plat shall clearly state that such road is private and shall not be accepted as a public street.

K. Mobile Home Parks

1. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of this Ordinance, the provisions of this section shall prevail.

2. Lot Area and Lot Width Requirements: Notwithstanding the dimensional requirements located in Zoning Ordinance, lots in a mobile home park shall meet the following lot area and lot width requirements.

   a. Lots served by individual subsurface waste water disposal systems:

Minimum lot area:	20,000 sq.ft.
Minimum lot width:	100 ft.
Minimum front setback	50 ft.
Minimum side and rear setback	25 ft.

   b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services:

Minimum lot area:	12,000 sq.ft.
Minimum lot width:	75 ft.
Minimum front setback	50 ft.
Minimum side and rear setback	15 ft.

   c. The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 sq.ft. of total park area.

   d. Lots located within any shoreland zoning district shall meet the lot area, lot width and shore frontage requirements for that district.

   e. No lot in a mobile home park may have vehicular access directly onto an existing public street, unless a new street is constructed to town standards to serve the mobile home park and accepted as a public street.

3. Street Design, Circulation and Traffic Impacts: Streets within a park shall be designed by a Licensed Professional Engineer, registered in the State of Maine.

   a. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in Section 8.J. of this Ordinance.

   b. Streets which the applicant proposes to remain private ways shall meet the following minimum geometric design standards.

      1) Minimum right-of-way width: 23 feet
      2) Minimum width of traveled way: 20 feet

   c. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more, shall have at

least two street connections leading to existing public streets, other streets within the park or other streets shown on an approved subdivision plan.

d. The intersection of any street within a park and existing public street shall meet the following standards.

1) Angle of Intersection. The desired angle of intersection shall be 90E. The minimum angle of intersection shall be 85E.

2) Maximum grade within 75 feet of intersection. The maximum permissible grade within 75 feet of the intersection shall be 2%.

3) Minimum Sight Distance. The minimum sight distance shall comply with Section VIII.J.2.m.

4) Distance from Other Intersections. The center line of any street within a park intersecting an existing public street shall be no less than 125 feet from the center line of any other street intersecting that public street.

4. No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.

a. The land within the park shall remain in an unified ownership and the interest to individual lots or portions of lots shall not be transferred.

b. No dwelling unit other than a manufactured housing unit shall be located within the park.

L. Archaeological Sites

Any proposed subdivision activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the Board. The Board shall consider comments received from the Commission prior to rendering a decision on the application.

M. Scenic Locations

The Board shall consider the existence of a scenic site or view location as identified in the Town of Phillips Comprehensive Plan and the impact of the proposed subdivision on such a site or view. The Board may require the placement or visual qualities of structures on lots in such locations so to minimize the negative impacts of the subdivision on such sites and views.

N. Phosphorous Export

Phosphorus, a natural nutrient, stimulates algal growth that causes a significant decline in water quality. The primary source of new and increasing phosphorus loads in Maine lakes is development-residential, commercial, and industrial. Its impact on water quality is extremely long term. The following phosphorus control measures were created and designed to address this concern.

1. Subdivisions proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorus runoff to the levels defined below.

Post Development Phosphorous Export by Watershed

Lake Name	Lake Protection Level	Lake Load Allocation (lbs/ppb/yr)[1]	Allowable Phosphorus Export Per Acre (Pounds)
Long Cove Pond	High	1.01	0.032
Lufkin Pond	High	5.84	0.038
Mud Pond	High	0.02	0.028
Stetson Pond	High	0.99	0.058
Toothaker Pond	Medium	0.72	0.035
Webb Lake	High	8.07	0.038

[1] The pounds per year of phosphorus from the watershed that would produce an increase in phosphorus concentration by more than 1.0 parts per billion.

[2] The Board shall keep an accurate record of development within each watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments to the table at two year intervals.

2. Phosphorus export from a proposed subdivision shall be calculated according to the procedures defined in APhosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development@ (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Board.

3. Phosphorus control measures shall meet the design criteria contained in APhosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development@ (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

O. Protection of Significant Wildlife Habitat

Applicants proposing to subdivide land in or within seventy-five (75) feet of significant wildlife resources or fisheries habitats identified by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Planning Board. The Board shall consider any recommended measures provided to minimize impacts on such habitats. Any conditions to the approval to wildlife or fisheries habitat preservation shall appear on the plan and as deed restrictions to the affected lots.

P. Utilities

1. The subdivider shall construct water mains in such a manner as to make adequate water service available to each lot within the subdivision unless it has been agreed with the Board that such lots will be served by privately owned supply systems. The size, type and installation of all public water mains shall be in accordance with plans and standard specifications as approved and shall include fire hydrants.

2. The subdivider shall install electrical power and telephone facilities to adequately service each lot in the subdivision.

3. The Board shall have the authority to designate whether sidewalks shall be installed.

SECTION IX. Waivers

A. Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any provision of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Town of Phillips Comprehensive Plan, or any other ordinance or law.

B. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

SECTION X. Performance Guarantee

A. Prior to approval of a Final Plan, the Board may require that the subdivider file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Phillips, or a performance bond running to the Town of Phillips and issued by a surety company acceptable to the Town of Phillips. The conditions and amount of such certified check or performance bond shall be determined by the Board with the advice of the various municipal officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the plan within two years of the date of the certified check or performance bond.

B. The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the

municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

C. Upon approval of the Final Plan, the Board may, at its discretion, waive the requirements of a performance guarantee, under the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lots in the subdivision until it shall have been certified in the manner set forth in Section XI, that all improvements have been made. The Board shall set a reasonable completion date for said improvements, and approval of a Final Plan shall be voided if said improvements are not completed within the specified time. The Board may, upon request from the subdivider, extend the completion date.

D. Before a subdivider may be released from any obligation requiring a guarantee of performance, the Board will require certification from the various municipal officers (Inspecting Official, Selectmen, Road Commissioner, Fire Chief) to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).

SECTION XI. Inspection of Required Improvements

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

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

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Inspecting Official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.

D. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by the Inspecting Official. By December 1 of each year during which construction was done on the site, the Inspecting Official shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

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

F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be required by the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements. As built plans shall be submitted to the Municipal Officers.

G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks and maintenance until acceptance of the improvements by the municipality.

SECTION XII. Plan Revisions After Approval

No changes, erasures, modifications or revisions shall be made in any Subdivision Plan after Final Plan approval has been given by the Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Board approves any modifications. In the event that the Subdivision Plan is recorded without complying with this requirement, the plan shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Selectmen and the Registry of Deeds.

SECTION XIII. Initiation of Development Within Two Years

If construction of the public improvements are not begun within two years from the approval date, the approval shall lapse and the applicant shall reapply to the Board for a new approval. Reapplication for approval shall state the reasons why construction was not begun and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplication for approval shall require the submission of all information and fees required by this Ordinance.

SECTION XIV. Validity, Effective Date, Conflict of Ordinances and Repeal of Existing Subdivision Ordinances and Regulations

A. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

B. This Ordinance shall take effect and be in force from and after the date of its official adoption.

C. This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulations, bylaw, permit or provision of law. Where this Ordinance impose a higher standard for the promotion and protection of health and safety, the provisions of this Ordinance shall prevail.

D. Adoption of this Ordinance shall repeal any and all previous subdivision ordinances and regulations. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.

SECTION XV. Amendments

This Ordinance may be amended by a majority vote of the Board. Amendments may be initiated by a majority vote of the Board or by request of the Board of Selectmen to the Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment.

SECTION XVI. Appeals

An appeal may be taken within thirty (30) days from the Board=s final decision on the Preliminary or Final Plan by any party to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

SECTION XVII. Definitions

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality.
Common Driveway: A vehicle access way serving two lots or dwellings.

Building Envelope: The area of a lot that includes but not limited to structures, lawns and other improvements.

Direct Watershed of Lake or Pond: Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

Driveway: A vehicle access way serving one lot or dwelling.

Dwelling Unit: A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Farm Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and use primarily for farming activities, including crop management and harvesting.

Fresh Water Wetland: Means fresh water swamps, marshes, bogs and similar areas which are:

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

B. Not considered part of great pond, river, stream or brook.

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

Inspecting Official: An individual appointed by the Selectmen to inspect streets and other improvements during construction.

Lot Line: A line of record bounding a lot that divides one lot from another lot.

Lot Line, Front: The lot line separating a lot from the street right-of-way.

Lot Line, Rear: The lot line opposite and most distance from the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Logging Road: A route or track consisting of a bed of exposed mineral soil, gravel or other surfacing material constructed for or created by the repeated passage of motorized vehicles and used primarily for forest management activities, including associated log yards and winter haul roads.

Manufactured Housing Unit: Structures, transportable in one or more sections which were constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

Multi-unit Residential: a residential structure containing three (3) or more residential dwelling units.

Open Space Development: A subdivision in which the lot sizes are reduced below those normally required which in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization.

Privately Owned Road/Street: A street not maintained by the Town of Phillips and/or State of Maine

Public Road/Street: A street maintained by the Town of Phillips and/or State of Maine.

Setback: The horizontal distance from a lot line or street right-of-way to the nearest part of a building or structure.

Stream, River or Brook: River, stream or brook means a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics.

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
C. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, in the stream bed.

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

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

Street: A vehicular way providing access to three or more lots or dwellings. The term does not include driveways, common driveways, farm roads or logging roads.

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

Subdivision: A subdivision shall mean the division of a tract or parcel of land as defined in Title 30-A M.R.S.A. Section 4401 and as hereafter amended.

Traditional Subdivision Layout: A subdivision design that creates individual lots without common open space or consideration of the parcel=s natural features.

SUBORDINANCE 10.23.08