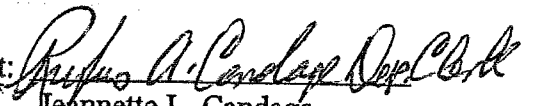


BLUE HILL
SUBDIVISION ORDINANCE

A True copy of the "Blue Hill Subdivision Ordinance" to be voted on October 30, 1992.

Attest: 
Jeannette L. Candage
Clerk of Blue Hill

BLUE HILL
SUBDIVISION ORDINANCE

I. PURPOSE

The purpose of this Ordinance is to assure the safety, health and welfare of the people of the Town of Blue Hill, to protect the environment, and to promote the development of an economically sound and stable community. In reviewing subdivision applications, the Planning Board, or the selectmen in the absence of a planning board, shall consider the requirements of this Ordinance before granting approval, approval with conditions, or denial, and shall make findings of fact that the provisions of this Ordinance have been met and that proposed subdivisions meet the guidelines of Maine subdivision law, Title 30-A M.R.S.A. §§ 4401-4407, and as it may later be amended.

II. AUTHORITY; DEFINITIONS

A. Authority

This Ordinance is adopted pursuant to Municipal Home Rule Powers granted in the Maine Constitution; Title 30-A M.R.S.A. § 3001-3006; and Title 30-A M.R.S.A. § 4403(2). It shall be known as the "Subdivision Ordinance of the Town of Blue Hill, Maine," adopted and effective on _____ by vote of the town meeting.

B. Definitions

The terms in this Ordinance shall be as defined in Title 30-A M.R.S.A. § 4401, and as it may later be amended.

III. APPLICABILITY

This Ordinance applies to all land use activities defined as a "Subdivision" in Title 30-A M.R.S.A. § 4401, and as it may be later amended, except for those leased dwelling units which are subject to review under the "Blue Hill Commercial Site Plan Review Ordinance". All other such activities require subdivision approval pursuant to the provisions of this Ordinance.

IV. FORM OF APPLICATION

Application for subdivision approval shall be made in a form approved and promulgated by the Planning Board.

V. ADMINISTRATIVE REVIEW PROCEDURES

Administration of this Ordinance shall be as provided in Title 30-A M.R.S.A. § 4403, as it may later be amended.

A. Preliminary application

1. An applicant shall submit 10 copies of the application and preliminary plan to the Planning Board. When an application is received, the Planning Board shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, the Code Enforcement Officer, and the clerk and reviewing authority of other municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.

2. The preliminary plan shall be drawn in the appropriate scale on sheets not larger than 24" x 36" each and shall show the location of all existing structures, wells, subsurface sewer systems, utilities, streams, water bodies, and roads located on the applicant's property. There shall be included a location map, to a scale of not less than 1" to 400', showing the relationship of the proposed project to all land within 3,000 feet of any property line.

3. All preliminary plans shall clearly be marked "PRELIMINARY" in the top right-hand corner. The preliminary plan and accompanying information sheets shall show the following, except for those items that the Planning Board deems not appropriate and agrees to waive:

a. Proposed subdivision name.

b. Lot numbers and land boundaries.

c. Date, magnetic north point, and a scale appropriate to the following table:

ACRES	SCALE
1 - 10	1" = 10' to 1" = 50'
1 - 50	1" = 50' to 1" = 100'
50 & up	1" = 100' to 1" = 200'

d. Proposed lot lines with approximate dimensions and locations of existing and/or proposed buildings, subsurface sewerage disposal systems, utilities, streets, and wells on applicant's property.

- e. Location of all parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or site elements to be preserved.
- f. Location and size of wetlands, watercourses, and other essential existing physical features, located on applicant's property.
- g. Contour lines at intervals of not more than 5 feet.
- h. Typical cross-sections of proposed grading for roadways, sidewalks, and storm drainage facilities (attach to preliminary application).
- i. A soil erosion and sedimentation control plan (attach to preliminary application).
- j. Evidence of soil suitability for subsurface wastewater disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules, plus the applicable Soil Conservation Service medium-intensity soil survey.

The area on each lot found to be suitable for subsurface wastewater disposal shall be accurately plotted on the subdivision plan.

In no instance shall a disposal area in developments to which this Ordinance applies be permitted on a lot which requires a new system

variance from the Subsurface Wastewater Disposal Rules if any part of such lot is located in a shoreland-zoned area or in the watershed of the Blue Hill Water District.

- k. Evidence that all criteria of other Town of Blue Hill land use ordinances can be met and that all of the review criteria in this Ordinance will be satisfied.

- l. Subdivisions in which more than a daily average of 2,700 gallons of waste water of any type may be generated when the site is not served by public sewer, shall submit a high-intensity soil survey prepared by a certified soil scientist and a hydrogeologic assessment prepared by a certified geologist with demonstrated groundwater hydrology impact assessment experience and training, and when any one or more of the following conditions are met:
 - (1) Any part of the subdivision is located over or within 300 feet of a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," prepared by the Maine Geological Survey, 1985.

 - (2) The subdivision contains any lot less than 100,000 square feet in total area;
or

(3) The subdivision has an average density of less than 100,000 square feet per dwelling unit.

(4) In a cluster development of 10 or more units, the density of which is less than 1 1/2 acres per dwelling unit attached or detached.

(5) Any part of the subdivision is located in a shoreland zoned area.

(6) Any part of the subdivision is located in the watershed of the Blue Hill Water District.

m. A traffic impact analysis which demonstrates that the street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision has adequate traffic-carrying capacity or can be suitably improved to accommodate the amount and types of traffic generated by the proposed use.

n. Subdivisions which may extract more than 2,700 gallons of groundwater or spring water per day shall submit a groundwater extraction impact assessment.

4. Within 30 days after receiving an application, the Planning Board shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific

additional material needed to complete the application.

5. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

B. Preliminary Review

1. Within 30 days of determining that the preliminary plan and application for subdivision approval are complete, the Planning Board shall hold a public hearing. The Planning Board shall give notice in writing to the applicant immediately upon setting the date for the hearing, and shall cause a notice to be published twice in a newspaper of general circulation in the Town of Blue Hill, the first publication to be at least 10 days prior to the hearing.
2. The Planning Board shall, within 30 days of the public hearing, and in any event no more than 60 days from the date of determining that the preliminary application is complete, or within such other time as may be mutually agreed upon by the applicant and the Planning Board, issue an order denying or granting approval of the subdivision plan. The Board may grant approval upon such terms or conditions as it may deem advisable to satisfy the criteria and standards of the land use ordinances of the Town of Blue Hill.
3. Unless a specific extension of time is granted by the Planning Board, the approval of any

Preliminary Plan shall expire one year from the date of approval.

C. Final application

1. The Final Plat shall be submitted within one year after the date of approval of the preliminary plan. It shall be submitted with the original transparency suitable for permanent recording in the Hancock County Registry of Deeds. The Final Plat and three copies shall be submitted to the Planning Board.
2. The Final Plat shall show the following, except for those items that the Planning Board deems not appropriate and agrees to waive:
 - a. All the information required for the Preliminary Plan and amendments thereto.
 - b. Title and location of subdivision or plan; name, registration number, and seal of the registered land surveyor who prepared the final plat; and date.
 - c. Names and lines of all existing and proposed streets; lengths of all straight lines; the angle deflection, radius, length, and central angle of all curves; tangent distances; and bearings.
 - d. Location and description of permanent markers.
 - e. All conditions of approval imposed by the Planning Board.

- f. Sufficient lines for signatures of the Blue Hill Planning Board members and a line for date of approval.

D. Final review

1. If the Planning Board determines that another public hearing is appropriate, the procedures for a public hearing on a Final Plat shall be the same as those for a preliminary plan (see Section V(B)(1) above). In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the Planning Board shall make findings of fact as required by Title 30-A M.R.S.A. § 407 and as it may later be amended.
2. The Board may require a performance guarantee to secure completion of all public improvements required by the Planning Board and written evidence that the municipal officers are satisfied with the legal sufficiency of any documents.
3. The approval of a Final Plat shall be attested on the original transparency and three copies by the signatures of a legal majority of the Board. One copy shall be filed with the assessors, and one copy shall be filed with the Planning Board. The applicant shall record the signed original transparency and the third signed copy of the Final Plat with the Hancock County Registry of Deeds within 30 days of its approval by the Board.

VI. REVIEW CRITERIA

The review criteria in this Ordinance shall be as provided in Title 30-A M.R.S.A. § 4404. As of October of 1992, when reviewing any subdivision application for approval, the Planning Board shall consider the following criteria (which may change from time to time as the statute is amended) and, before granting approval, must determine that:

- A. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:
1. The elevation of the land above sea level and its relation to the flood plains;
 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 3. The slope of the land and its effect on effluents;
 4. The availability of streams for disposal of effluents; and
 5. The applicable state and local health, and water resource rules and regulations;
- B. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Town water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
- D. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's

capacity to hold water or that a dangerous or unhealthy condition results.

- E. **Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed.

- F. **Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on Town services if they are utilized;

- G. **Town solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if Town services are utilized;

- H. **Aesthetic, cultural, and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

- I. **Conformity with Town Ordinances and plans.** The proposed subdivision conforms with this Ordinance and with the comprehensive plan. In making this determination, the Planning Board may interpret this Ordinance and the comprehensive plan;

- J. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
- K. Surface waters. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38 M.R.S.A. § 435 et seq., the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
- L. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of

freshwater wetlands may be done with the help of the local soil and water conservation district;

- O. **River, stream or brook.** Any river, stream or brook within or abutting the subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38 M.R.S.A. § 480 (B) (9), and as it may later be amended; and
- P. **Storm water.** The subdivision will provide for adequate storm water management;
- Q. **Spaghetti lots prohibited.** If any lots in the subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38 M.R.S.A. § 480 (B), none of the lots created within the subdivision have a lot-depth-to-shore-frontage ratio greater than 5 to1.

VII. **APPLICATION FEES**

A. **Preliminary Plan Fees**

All applications for Preliminary Plan approval shall be accompanied by an application fee of \$100.00 for each lot or dwelling unit. Application fees shall be made by check payable to the Town of Blue Hill, Maine.

Application fees may be doubled for “after-the-fact” filing.

B. **Final Plan Fees**

All applications for Final Plan approval shall be accompanied by an application fee of \$100.00 payable by check to the Town of Blue Hill, Maine.

C. Planning Board Review Escrow Account

In addition to the above application fees, there shall be a payment made at the time of application of \$150.00 for each lot or dwelling unit in a subdivision. The escrow-account fee shall be payable by separate check to the Town of Blue Hill, Maine, and need not be deposited into a separate account. The escrow-account fee or portions thereof shall be used by the Town, at the request of the Planning Board, to make payments for the reasonable costs incurred by the Board that relate directly to the Board's review of the related subdivision application. Such costs may include, but need not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees. All such fees must relate to the review of the application pursuant to the review criteria of the State of Maine and the Town of Blue Hill, and in addition may be used for conducting public hearings related to the Planning Board's review of the application.

Upon written request of the applicant, the Planning Board shall provide the applicant with a final accounting of this account and shall refund to the applicant all of the unexpended portion, if any, of the escrow-account fee after payment of all costs related to the Board's review of the application. Such accounting and refund of unexpended monies shall be made no later than 30 days after receipt of the applicant's written demand, which demand shall be made no earlier than the date of decision on the application. Escrow-account fees shall not be used by the Planning Board for any enforcement purposes, nor shall the applicant be liable for costs incurred by the

Planning Board which exceed the amount deposited to the escrow account, except by mutual agreement.

VIII. ENFORCEMENT

A. Prohibited Activities

No person may sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the Planning Board and subsequently recorded in the Hancock County Registry of Deeds.

B. Permanent Marker Required

No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, a granite monument, a concrete monument, an iron pin, or a drill hole in ledge.

C. Utility Installation

No public utility, water district, sanitary district or any utility company of any kind may install services to any lot or dwelling unit in a subdivision unless written authorization attesting to the validity and currency of all permits required under this Ordinance has been issued by the Planning Board. Following installation of service, the company or district shall forward the written authorization to the Planning Board, indicating that installation has been completed.

D. Violations, Enforcement

The Code Enforcement Officer, upon finding that any provision of this Ordinance, or any condition of a permit issued under this Ordinance, has been violated,

is authorized to issue notices of violation, orders to correct, and schedules to correct; to enter into administrative decrees and agreements; and, with the approval of the Selectmen, to institute legal proceedings on behalf of the Town of Blue Hill to enjoin violations of this Ordinance and to recover civil penalties and costs.

E. Civil Penalties

A person who violates the provisions of this Ordinance or the condition(s) of a permit issued hereunder, shall be guilty of a civil violation and on conviction shall be assessed a civil penalty not less than \$100.00 nor more than \$2,500.00. Each day the violation continues shall constitute a separate violation. All civil penalties shall be paid to the Town of Blue Hill. Violators shall also be liable for court costs and reasonable attorney fees incurred by the Town in connection with the violation.

IX. REVISIONS TO EXISTING PLAT OR PLAN

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall comply with Title 30-A M.R.S.A. § 4407 as amended. In reviewing such an application, the Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the Review Criteria of this Ordinance.

X. VALIDITY AND SEPARABILITY; CONFLICT WITH OTHER ORDINANCES

A. Validity and Separability

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision

shall not invalidate any other section or provision of this Ordinance.

B. Conflict with Other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirement shall apply.

XI. APPEALS

An appeal from a decision of the Planning Board may be taken to Superior Court within 30 days pursuant to Rule 80B, Maine Rules of Civil Procedure.