

SUBDIVISION ORDINANCE  
OF THE  
TOWN OF NEWPORT

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## ARTICLE 1- PURPOSE

The purpose of this Subdivision Ordinance shall be to assure the comfort, health, safety and general welfare of the people to protect the environment, to provide for the orderly development of a sound and stable community and to uphold the State Subdivision Law (MRSA Title 30, Sec. 4956).

## ARTICLE 2 – AUTHORITY AND ADMINISTRATION

### 2.1 Authority

2.1.1 This ordinance is adopted pursuant to and consistent with Title 30, MRSA Section 4956.

2.1.2 This ordinance shall be known and cited as the “Subdivision Ordinance of the Town of Newport”.

### 2.2 Administration

2.2.1 The Planning Board of the Town of Newport, with the assistance of the Code Enforcement Officer and the Selectboard (as specified in the Ordinance) shall administer this ordinance.

2.2.2 The provisions of this ordinance pertain to all land proposed for subdivision, as herein defined, within the boundaries of the Town of Newport.

2.2.3 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 in the Town of Newport which has not been approved by the Planning Board of the Town of Newport and recorded in the Penobscot County Registry of Deeds nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless a permanent marker is set at all corners of the lot sold or conveyed.

## ARTICLE 3- PROCEDURES FOR SUBDIVISION REVIEW

3.1 Introduction- Whenever any subdivision of land is proposed in the Town of Newport, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures in Sec. 3.2, 3.3 and 3.4 of this ordinance.

3.2 Pre-application meeting and submission of a sketch plan-

3.2.1 The subdivider shall submit seven copies of a sketch plan application to the Planning Board either at or prior the meeting in which the proposal is scheduled for discussion and the subdivider or his authorized agent shall be present at the meeting to discuss the proposal with the Planning Board.

3.2.2 The purposes of this pre-application conference between the subdivider and the Planning Board are:

1. To classify the subdivision as a major or a minor subdivision;
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdividers ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. If road construction is involved in the proposal, the Planning Board shall classify the road as either minor or collector;
5. To discuss any apparent potential problems associated with the subdivision;
6. To arrange for on-site inspection of the subdivision site; and
7. In case of minor subdivisions (as defined) to vote whether to waive the requirement for preliminary review.

3.2.3 The sketch plan shall consist of an outline of the proposed subdivision, drawn on a map, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan shall be a written application which includes a description of existing covenants and easements and shoreland zoning, medium intensity soils survey information; information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots, typical lot width, and depth, plans regarding sewer and water service and road construction, and any proposed non-residential lots, typical lot width, and depth; plans regarding sewer and water service and road construction, and any proposed non-residential areas.

3.2.4 Other than the classification of the subdivision and the roads (if necessary) and the establishment of review procedures to be used, no binding commitments shall be made between the subdivider and the Board at this stage.

3.2.5 The subdivider shall notify the Board Chair at least 7 days prior to the meeting date in which he intends on bringing a sketch plan before the board. The Planning Board shall act on the sketch plan within 45 days of the time of submission of the sketch plan and shall notify the subdivider of its action, in writing, within 15 days of its action.

3.2.6 Inspection of Site- In order for the Board to be more fully informed about the site of the proposed subdivision, the subdivider shall arrange for an inspection of the site with the Board or an inspection of the site with the Board or an individual appointed by the Board to act as its representative for the inspection. Unless the Board has voted a waiver of inspection, the pre-application phase of the review process shall not be considered complete until such inspection has been made.

### 3.3 Preliminary Plan Phase

3.3.1 Purpose- The purpose of Preliminary Plan Review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seems appropriate based on state and local laws and regulations. The intent is that all major issues relative to the design of the subdivision will be identified and resolved prior to the submission of the final plan.

#### 3.3.2 Procedure

3.3.2.1 Application: Within six months after the classification of the sketch plan by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan. Failure to do so may require re-submission of the sketch plan to the Planning Board for reclassification. The Preliminary Plan shall substantially conform to the layout shown on the sketch plan plus any recommendation made by the Planning Board. If the subdivision is classified as a Preliminary Plan requirement, all procedures in Section 3.3 may be by-passed in the review process.

3.3.2.2 The application for approval of the Preliminary Plan shall be accompanied by fee of \$250.00 payable by check to the Town of Newport.

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

3.3.2.4 Ten copies of the application for the Preliminary Plan shall be provide 15 days prior to the meeting date.

3.3.2.5 Public Hearing – The Planning Board may hold a public hearing on the Preliminary Plan. If it determines that a public hearing shall be held, it shall be held within 30 days of the time of submission of the preliminary plan. Said hearing shall be advertised in a newspaper of general circulation in Newport at least two times, the date of the first

publication to be at least 7 days prior to the hearing. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard or regulation.

3.3.2.6 Within 30 days after the public hearing, or within 60 days of the date of submission of the plan if no public hearing is held, the Planning Board shall take action to give preliminary approval, with or without modifications, or to disapprove such Preliminary Plan. The reasons for approval, for any modification required, or the grounds for disapproval shall be stated in the records of the Planning Board. **Failure of the Planning Board to act within the required time limit shall constitute approval.**

3.3.2.7 When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to: ( 1 ) the specific changes which it will require in the final plan; ( 2 ) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety and general welfare. The Planning Board shall notify the subdivider, in writing, of its decision and any conditions and reasons associated with it.

3.3.2.8 Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

3.3.3 Submissions-Ten copies of the Preliminary Subdivision Plan shall be submitted. It may be either printed or reproduced on paper. The Preliminary plan shall be not less than 8.5” by 11” and not more than 24” by 36”. The plan shall be drawn to scale in which one inch equals no more than 100 feet. The Preliminary Plan and supporting data shall include the following information:

3.3.3.1 Information about the Applicant

	Information to be on the Plan	Written information to accompany Plan
1. Name of owner	X	X

- |  |   |   |
|--|---|---|
| 2. Name of applicant<br>(If not owner)   | X | X |
| 3. If applicant is a corporation,<br>licensed to do business in Maine,<br>attach a copy of Secretary of<br>State's Registration certificate. |   | X |
| 4. Name of applicant's authorized<br>representative  |   | X |
| 5. Name, address and number of<br>Registered Professional Engineer<br>or Land Surveyor who prepared<br>plan.                                 | X | X |
| 6. Address to which all<br>correspondence should be sent.  |   | X |
| 7. What interest does the applicant<br>have in the parcel to be<br>subdivided.   |   | X |
| 8. What interest does applicant<br>have in any abutting property.  | X | X |
| 9. State whether preliminary<br>plan covers entire contiguous<br>holdings or applicant or not.   |   | X |

### 3.3.3.2 Information about Parcel to be Subdivided

- |  |   |   |
|--|---|---|
| 1. Location of property:<br>Registry of Deeds Book and Page numbers,<br>Town tax map and lot numbers.                                      |   | X |
| 2. Map survey of parcel<br>to be subdivided, certified<br>by a Registered Land<br>Surveyor tied to establish<br>reference points. (attach) | X |   |
| 3. Acreage of parcel to<br>be subdivided   |   | X |

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|---|---|---|
| 4. A soils report, identifying soil types and location of soil test areas. Evidence of soil suitability as per the Maine Plumbing Code shall be presented if subsurface sewage is proposed. There shall be one soil test per lot if subsurface sewage disposal is proposed. | X |   |
| 5. Names of abutters of parcel to be subdivided, and any on the opposite side of any road from parcel to be subdivided.   | X |   |
| 6. Indicate the nature of any restrictive covenants to be put on the deeds.   |   | X |
| 7. Shoreland Zoning if applicable   | X | X |

#### 3.3.3.3 Information on Subdivision

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|--|---|---|
| 1. Proposed Name   | X | X |
| 2. Number of lots, and their sizes.  | X | X |
| 3. Date, north point, graphic scale map.   | X |   |
| 4. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems and wells.  | X |   |
| 5. Location of all parcels to be dedicated to the public use and the conditions of the dedication.   | X | X |
| 6. A location map, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2000 feet of any | X |   |

property line of the proposed subdivision.

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|---|---|---|
| 7. Location and size of existing watercourse, and other essential existing physical features including wetlands and flood plains.   |   | X |
| 8. Location and size of existing sewers and water mains, and culverts and drain on the property.  | X |   |
| 9. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and open spaces.   | X |   |
| 10. Contour lines at an interval of not more than 5 feet in elevation, unless otherwise specified by the Board. All elevations shall be referred to USGS.   | X |   |
| 11. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalk.   | X |   |
| 12. Storm drainage plan indicating the approximate location and size of proposed lines and means of disposal and the effect of the drainage on the property.  | X |   |
| 13. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing sewer and sewage disposal shall be shown. If the subdivision is to utilize the facilities of the Newport Water District, the subdivider shall provide a letter from the superintendent of the appropriate district saying he has reviewed the preliminary plans and approves the design as proposed or that he requires various modifications of the plans. | X |   |

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| 14. Location of all other existing and proposed utilities.   | X |   |
| 15. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted. This information may be indicated on a preliminary plan.  | X |   |
| 16. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of one inch equals not more than 400 ft., showing an outline of the plated area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract. The part of the subdivider's holding submitted shall be considered in light of the entire holding. | X |   |
| 17. If the preliminary application covers more area that the final plan will cover, a map showing the phasing of the entire project, drawn at a scale of one-inch equals not more than 400 ft., and indicating the proposed timing of each phase.  | X | X |
| 18. Other reasonable information not indicated above, as specified by the Board.   | X | X |

### 3.4 Final Plan

#### 3.4.1 Procedure

1. Within 6 months of the date of the Planning Board action on the Preliminary Plan or, if the Preliminary Plan requirement has been waived, with 6 months of the Planning Board's vote to waive a requirement, the subdivider shall submit the final plan within the designated time period may require resubmission of the Preliminary Plan if such was required or of the sketch plan if the Preliminary Plan was not required. However, the subdivider may submit a final plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within two years of the preceding phase. The final plan shall consist of two original transparencies, of the one or more maps or

drawings and ten copies of all items, including maps, drawing and written information) necessary to complete the submission.

2. The application for approval of the Final Plan shall be accompanied a fee for \$10.00 per lot payable by check to the Town of Newport, Maine.

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

4. The time submission of the Final Plan shall be the date of the regular monthly meeting of the Planning Board, at least fifteen days prior to which the complete application, accompanied by the required fee, has been filed with the Chairman of the Planning Board. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time for submission of the Final Plan.

5. Within 30 days from the receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application had been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.

6. Prior to submitting the final plan, the subdivider of a major sub-division involving construction of roads or the extension of the public water or sewer systems shall file all improvement guarantees in accordance with Article 4.

7. Public Hearing-The Board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within 30 days of having received a complete final plan (as determined under section 3.4.5) The Planning Board shall advertise the public hearing in the manner described in Section 3.3.2.5 of this ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation which is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.

8. Review and Action on Final Plan-The Board shall, within 30 days of a public hearing or within 60 days for having received a complete application, if no public hearing is held; or within such other time limit as may be mutually agreed to by the Board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria cottoned in this ordinance and state law 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 Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and State Subdivision Law.

9. Upon approval of the plan, at least a majority of the Board members present and eligible to vote shall sign both transparencies. The date and any conditions of approval shall be written in both transparencies. One signed transparency shall be returned to the sub-divider for filing at the Registry of Deeds and one signed transparency shall be retained by the planning board. The Planning Board shall maintain a permanent record of their action on the final plan.

10. No changes, erasures, modifications, or revision shall be made in any subdivision plan after approval has been given by the Planning board and endorsed, in writing on the plan, unless the plan is first re-submitted to the Planning Board and the Board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

11. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within 90 days of the date of approval. Any plan not filed with ninety days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrants the Planning Board to grant an extension, which shall not exceed two additional ninety-day periods. Within seven days of the filing of the subdivision plan, the subdivider shall give the Chairman of the Planning Board written notification of the date of the filing and the Registry of Deeds file number assigned to the plan.

12. If the Planning Board fails to take action within 60 days of the time of submission of a complete final plan, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

13. Approval of a subdivision plan does not imply that any road in the subdivision will be accepted by the town. A road can only be accepted as a public way by the legislative body of the Town of Newport: Town Meeting.

3.4.2 Submissions- The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall not be less 8 and one half by 11" and not more than 24" by 36". The plan shall be drawn at a scale in which 1

inch equals no more than 100 feet and shall be oriented so the north direction is the same on all sheets.

In addition to all items required on the Preliminary Plan unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Plan submission:

	Information to be on the Plan	Written information to accompany Plan
1. Registered Land Surveyor or Engineer-The name, registration number, seal and signature of the land surveyor and/or engineer whom prepared the plan. This information shall be on all sheets including cross section and profile sheets.	X	
2. Street- The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearing (shown on plan)	X	
3. Street Profiles- Profiles of proposed new streets on sheets separate from the plat, at a horizontal scale of one inch equals 40 feet; profiles of all proposed sewers shall be shown on street profiles, when applicable, at the same scale. All elevations shall refer to datum.	X	
4. Street Cross Section-Cross section of 50 feet horizontal intervals of proposed new streets on sheets separate from the plat, plotted at a scale of one inch equals 5 feet. All elevations shall refer to USGA datum.	X	

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|---|---|
| 5. Sewer Profiles of sanitary sewer, if not shown on street profiles, on sheets separate from the plat, at the same scale indicated for street profiles.  | X |
| 6. Storm Drainage Plan- Indicating the location and size of the proposed lines and their profiles and means of disposal.  | X |
| 7. Open Spaces- The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider. If open space or recreation land is to be dedicated to the town, accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that they are satisfied with the legal sufficiency of the documents conveying such land dedication. | X |
| 8. Lots- The location, bearing and length of every line, with all lots to be numbered in accordance with the practice of the Town of Newport.   | X |
| 9. Permanent Reference Monuments- The location of the permanent monuments and pins, set at all lot corners and identified as existing or proposed.  | X |
| 10. Improvements Guarantee Accompanying the plan shall be a letter from the Selectboard indicating that the form, amount and duration of the improvement guarantee is sufficient and that it has been filed with them.  | X |
| 11. Approval Space- Suitable space to record on the approved plat plan the date and conditions of approval, if any. This space shall be similar to the following example:   | X |

Approved: Town of Newport Planning Board

Chairman: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

Conditions: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

<p>12. Accompanying Data-If public water is proposed, accompanying the final plan shall be a letter from the Superintendent of the Newport Water District stating the conditions on which the district will supply water and approving the size and locations of mains, valves, and hydrants proposed. If public sewer is proposed, accompanying the final plan shall be a letter from the Superintendent of the Newport Sanitary District stating the conditions on which the district will provide sewer service and approving the design and construction plans for the sewer. Also there shall be a letter from the Fire Chief approving the design and approving the design and construction plans for the sewer. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed.</p>	<p>X</p>
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ARTICLE 4-IMPROVEMENT GUARANTEES

4.1 Improvement Guarantees Required- Before the submission of a Final Plan, the subdivider in all major subdivisions involving the construction or reconstruction of roads and/or storm drain system(s) and/or the extension of the public water supply system shall provide the town with improvement guarantees, in form of one or more of the guarantee options listed below in an amount that will cover at least 100% of the cost of completing the improvements, should the subdivider fail to complete the required improvements or fail to complete them satisfactorily in accordance with the approved final subdivision plans.

4.2 Procedure- The subdivider shall file with the Selectboard a proposed improvement guarantee and the Selectboard shall determine whether the form, amount and the duration of the improvement guarantee are sufficient. In the event of Selectboard refuse to approve the proposed improvement guarantee as filed by the subdivider, they shall so inform the subdivider. In the event the Selectboard approve the proposed improvement guarantee as proposed by the subdivider, they shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Selectboard. The burden of submitting improvement guarantees in compliance with this ordinance shall at all times remain with the subdivider. In determining whether the form, amount and fraction of the improvement guarantees are sufficient, the Selectboard shall consult with appropriate recommendations relative to the guarantees as they pertain to the water system. The Selectboard may also seek other technical or legal advice in making their determination.

#### 4.3 Time Limits

4.3.1 Completion Deadline-All required improvements within a subdivision shall be completed within 2 years of final subdivision approval. The improvements guarantee must provide performance protection to the Town during said 2-year period. The additional 6 month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete the required improvements or fails to complete the required improvements or fails to complete the required improvement or fails to complete them satisfactorily.

4.3.2 Extension- The Selectboard may extend the completion deadline for two additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered after the completion deadline. Before extending the initial deadline or the initial extension, the Selectboard shall require that the improvements guarantee be extended in duration to cover the extended period of time plus an additional 6 month period. Before extending the initial deadline, or the initial extension, the Selectboard shall review the form and amount of the improvement guarantee to make certain it remains adequate.

#### 4.4 Inspection

4.4.1 The Selectboard or their duly appointed representative shall regularly inspect the construction of the required improvements for defects. The Superintendents of the Newport Water and Sanitary Districts may also make such inspections. The subdivider shall cooperate with the Selectboard or their representative who is carrying out these inspections and with the Water and Sanitary Districts. Upon completion of the

improvements the Selectboard shall notify the Superintendent of the Water District, in writing, that the improvements are complete and request information from him about whether the water or sewer system has been satisfactorily completed according to the approved subdivision plan. If improvements have not been satisfactorily completed, the Selectboard shall list the defects.

4.4.2 Upon completion of the improvements, the subdivider shall file the following with the Selectboard:

1. A sworn statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause in the improvements;
2. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien; and that the subdivider knows of no defects from any cause, in the improvements.

4.5 Release of Guarantee- As soon as the Selectboard or their authorized representative has inspected the improvements and certified that they are satisfactorily completed as required in 4.4.1 of this ordinance, and the subdivider has filed the letters required in Section 4.4.2 of this ordinance with the Selectboard, the Selectboard shall release the previously required improvement guarantee to the subdivider.

4.6 Reduction of Guarantee- No improvement guarantee shall be reduced in value until all required improvements are satisfactorily completed.

4.7 Incomplete or Unsatisfactorily Work- If the Selectboard determine, according to the procedures laid out in Section 4.4.1 of this ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, they shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee. They shall exercise any and all such rights; and shall cause the incomplete or unsatisfactory work to be completed and to be paid from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the Town.

4.8 Improvement Guarantee Options

4.8.1 Performance Bond- Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Newport and shall be in the amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectboard. The duration of the bond shall be for a period of time acceptable to the Selectboard, but in any case shall be for at least 2 years and 6 months and for not more than 3 years, unless the subdivider is granted an extension in accordance with Section 4.2 of this ordinance. In the event an extension is granted, the Selectboard shall require the duration of the subdivision bond to be extended for at least 6 months from the termination of the new time limit but not for more than 1 year from the termination of the new time limit.

4.8.2 Property Escrow- Under this improvement guarantee option, the subdivider shall provide real estate as a guarantee. The value of such property shall be an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectboard.

If property escrow is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The value of the real estate shall be the value as established by the Town Assessor and, in making his valuation the Town Assessor shall take into account the possibility of a decline in value during the term of the improvement guarantee.

2. The subdivider shall, at his expense, provide the Town with a title opinion from an attorney approved by the Town; said title opinion shall establish that the subdivider has good and clear title to the premises, free of all liens and encumbrances. However, if encumbrances do exist on said real estate, the Selectboard may in their sole discretion accept the proposed real estate as security, provided that they determine that it is in the Town's best interest to do so.

3. The subdivider shall enter into an Agreement with the Town and a mortgage, which mortgage shall be recorded in the Registry of Deeds; said Agreement and mortgage shall provide that the ownership of the property shall be transferred to the Town, unless the subdivider satisfactorily completes the required improvements in accordance with this ordinance and with the approved final subdivision plan. Said agreement and mortgage shall be in such form and shall contain such additional provisions as may be required by the Selectboard.

4.8.3 Letter of Credit-Under this improvement guarantee option, the subdivider shall provide as a guarantee an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Selectboard. The

amount of such letter of credit shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectboard. The letter of credit shall be deposited with the Selectboard and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs estimated for the subdivider by a registered Professional Engineer and approved by the Selectboard of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Newport immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the limit of credit stated in the letter.
3. That the letter of credit is valid for the period of time required by the Selectboard. The period of time, not less than 2 years and 6 months from the date of subdivision approval, shall be stated in the letter. During that time the letter may not be withdrawn or reduced in amount except with the approval of the Selectboard.

4.8.4 Cash Escrow- Under this improvement guarantee option, the subdivider shall provide as a guarantee cash held in an account at a bank or other reputable institution subject to the approval of the Selectboard. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and approved by the Selectboard. The subdivider shall enter into an Agreement with the Town that shall stipulate the terms under which the Town may accept a cash escrow.

## ARTICLE 5-GENERAL REQUIREMENTS AND DESIGN STANDARDS

### 5.1 General Requirements

5.1.1 Conformity with Other Laws and Regulations-All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of Newport, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws and regulations.

5.1.2 Character of the Land-Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on

land (below sea level), within the 100 year frequency flood plain, or on land which must be filled or drained, or on land created by diverting a watercourse. In no instance shall the Planning Board approve any part of a subdivision located on filled wetland.

## 5.2 Lots

5.2.1 Lots to be Buildable-The lot arrangement shall be such that in constructing a building in compliance with the laws and ordinances of the Town of Newport and the State of Maine, there will be no foreseeable difficulties for reasons of topography or other conditions. Lots should not be of such dimension as to later encourage the creation of a second building lot out of the first.

5.2.2 Side Lines-All side lines of lots shall be at right angles to straight lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.

5.2.3 Corner Lots-In general, corner lots should be larger than interior lots to provide for adequate building setback from each street and to provide a desirable building site.

5.2.4 Frontage-All lots shall have at least 100 ft. of frontage on public street; lots with on-site sewage disposal shall have 200 ft. of frontage on a public street.

5.2.5 Frontage on Private Street-Frontage on private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations and the frontage meets the requirements of Section 5.2.4 of this ordinance.

## 5.3 Drainage Improvements

5.3.1 Removal of spring and Surface Water-The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring, surface or storm water that may exist either previous to or as a result of the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width.

5.3.2 Drainage Structure to Accommodate Potential Development Upstream-A culvert or other drainage facility shall be large enough to accommodate potential run-off from its entire upstream drainage area, whether inside or outside the subdivision. The facility shall be designed based on anticipated run-off from a ten-year storm under conditions of

total potential development permitted in the watershed by the Land Use Ordinance.

5.3.3 Responsibility for Down Stream Drainage-If requested by the Planning Board, the subdivider's engineer shall study the effect of the proposed subdivision on the existing down-stream drainage facilities outside the area of the subdivision. Where it is anticipated that the additional run-off incident to the development of the subdivision will overload an existing down-stream drainage facility during a storm with recurrence interval of five years, the Planning Board shall notify the Selectboard of such potential conditions. In such case the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

5.3.4 The Planning Board shall require that easements for drainage be turned over to the town.

5.3.5 Phosphorous Control-The subdivider shall incorporate whatever stormwater runoff controls or treatment measures as necessary to prevent additional phosphorous loading to Seabasticook Lake.

#### 5.4 Open Space and Recreation Land

5.4.1 Requirement- The Planning Board may require that up to 5% of the land area of a subdivision with more than 20 acres or 20 lots be set aside for open space or recreation. The actual amount of land and its location shall be satisfactory to the Planning Board. In making decisions about land set aside, the Planning Board shall be guided by the following standards:

1. Any land to be set aside as a requirement of this ordinance shall be reasonably adaptable for use for active plan and recreation purposes unless the Planning Board agrees to an open space area designed primarily for the protection of the natural environment. The Planning Board may only agree to the designation of such natural area if it determines that the active play and recreation needs of the residents of the subdivision will be reasonably met by other existing facilities. Active play and recreation areas shall be located so as to be convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size and shape, topography, geology, tree cover, access, location and projected use.

2. In no case shall a subdivider be required to set aside more than 5% of the land area of a subdivision for open space or recreation purposes without financial compensation.

In deciding whether to require land set aside, the Planning Board shall be guided by the following considerations:

- a. Whether the subdivision is already served by adequate recreational opportunity.
- b. Whether the town's adopted Comprehensive Plan calls for a park to be located in the area of the subdivision.
- c. Whether adjacent to the subdivision is a community park or open space, which would be benefited by the addition of land in the subdivision.

5.4.2 Provision for Ownership and Maintenance of Open Space or Recreation Land-If land is set aside under the provisions of 5.4.1 of this ordinance, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The Planning Board shall not approve such provision or the subdivision until it is satisfied that the land will be protected as open space in the future and that adequate provision has been made for its ownership and maintenance. The subdivider shall either:

- 1. Retain ownership and responsibility for maintenance of such land; or
- 2. Dedicate such land and property or facilities to public use if the town or another public agency had indicated it will accept such dedication; or
- 3. Provide for or establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a non-profit homeowner's association or a community open space trust is formed, it shall be governed according to the following regulations:
  - a. The organization shall be organized by the subdivider and operating, with financial support by the subdivider, if necessary, before the sale of any lots within the development.
  - b. Membership in the organization is mandatory for all purchasers of lots therein and their successors.
  - c. The organization shall be responsible for maintenance of common open space or recreation land. It shall also be responsible for insurance and taxes on same.

d. The members of the organization shall share equitably the cost of maintaining and developing common open space and recreation land in accordance with procedures established by them.

e. The organization shall have or hire adequate staff to administer common facilities and maintain the common open space and recreation.

## 5.5 Street Standards

5.5.1 Layout of Streets-All streets in a subdivision shall be planned so as to meet the following standards:

1. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Newport.

2. All streets in the subdivision shall be designed so as to provide safe vehicular travel and, in minor streets, shall be designed so as to discourage movement of through traffic.

3. The arrangement of streets in the subdivision shall provide for the continuation of arterial and collector streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable. Where a subdivision is served by a minor street, the Planning Board may require that a right-of-way or the minor street be projected to adjacent unsubdivided land when the Board finds that such a projected street would be in keeping with the land use goals for the area and with sound planning practice.

4. Reserve strips controlling access to streets shall be prohibited.

5. Intersections of streets shall be at angles as close to (90) ninety degrees as possible. In no case shall two street intersect at an angle of less than (60) sixty degrees.

6. A distance of at least 200 feet shall be maintained between centerlines of offset intersecting streets.

7. Whenever possible, subdivisions containing fifteen lots or more shall have at least two street connections with existing public exits, or streets on an approved Subdivision Plan.

8. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the preliminary and the final plan, marked "Reserved for road alignment (or widening) purposes". Land reserved for such purposes or for satisfying setback or yard or area requirements in other land use control ordinances if such exists.

9. The Planning Board shall determine whether a street shall be designed and constructed as a collector or minor street.

5.5.2 Design and Construction Standards- All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification.

Mandatory design and construction standards for streets: (Note: The asterisked (\*) items may be reduced only if the Maine Department of Environmental Protection determines that a narrower right-of-way and/or pavement width would be justified for lower phosphorous loading to Sebasticook Lake.

Design and Construction Standards for Streets

Items	Collector	Minor
1. Minimum Right-of-way width	*66'	*50'
2. Minimum Pavement Travel surface	*24'	*20'
3. Minimum Grade	0.5%	1.0%
4. Maximum Grade	8%	8%
5. Maximum Grade at intersection: 3% within	75'	50'
	(of intersection)	(of intersection)
6. Minimum centerline radii on curves	200'	200'
7. Minimum tangent length between reserve curves	200'	200'
8. Gravel sub-base	18"	18"
8.1 MDOT Specification 703.06 (b) Type D, maximum stone size of 6"		
9. Gravel base	4"	4"

9.1 MDOT Specification 703.06 (a) Type A.

10. Road cross slope/foot	$\frac{1}{2}$ - $\frac{3}{4}$ "	$\frac{1}{2}$ - $\frac{3}{4}$ "
11. Minimum shoulder width on each side of road travel surface.	3'	3'
12. Deadend		
1. Radii of turn around at enclosed end of Right-of-Way boundary	66'	66'
2. Outside pavement radius	47'	47'
3. Minimum Width of Pavement	30'	30'

13. Grades of streets shall conform as closely as possible to the original relief of the land.

14. All changes in grade shall be connected by vertical curves of such length and radius as will provide clear visibility for a distance of 200'.

15. Side slopes shall not be steeper than 3 feet horizontal and 1 foot vertical, graded, loamed (4 inches compacted) and seeded. If the side slope extends outside the required right-of-way, the subdivider shall expand the right-of-way to include the entire side slope area.

16. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding on the pavement and erosion of adjacent surfaces. Driveway culverts shall be adequate to pass the design flow of the contiguous ditches, and shall be a minimum of 12-inch diameter.

17. In construction of roads, the paved area, sidewalk and shoulder shall be cleared of all stumps, roots, brush, perishable material and all trees not intended for preservation. All loam, loamy material, clay, and other yielding material shall be removed from the roadway to at least subgrade depth, or as directed by the Selectboard.

18. The roadway area shall be brought to the grade shown on the plan, profile and cross-section. All gravel shall meet the specifications for Aggregate Subbase Courses as contained in the current edition of the Standard Specification for Highways and Bridges of the State of Maine Department of Transportation. The gravel base shall be brought to within four inches (4") of the finish and the top four inches shall be selected materials suitable for finish grade on gravel roads. All gravel shall be thoroughly compacted and rolled and the final surface left true to estimated lines and grades.



4. In general, streets shall have names, not numbers or letters.

#### 5.6 Utilities

5.6.1 If public water and/or sewer are proposed, the system shall be designed so as to accommodate any development that can reasonably be expected to tie into the system. In determining the amount of reasonably expected development, the Planning Board shall consider existing land use, shoreland zoning, the character of the land, topography, and existing constraints to development (such as boggy areas). The carrying capacity of the land of existing municipal services, and the Town's comprehensive plan or sewer and water plan.

5.6.2 The subdivider shall install any new public utility system at his own expense, according to the approved subdivision plan. If either the public sewer or water system follows a course that is not co-linear with the road network, the Planning Board shall require that the subdivider provide the Newport Sanitary District or the Newport Water District with utility easement before granting final approval.

5.6.3 If Individual wells are proposed for the subdivision, the Planning Board may require that the subdivider's engineer certify that sufficient water is available for the reasonably foreseeable needs of the subdivision.

5.6.4 If subsurface sewage disposal is proposed, the Planning Board shall require that the subdivider provide proof that a subsurface sewage disposal system that is in conformance with the Maine State Plumbing Code can be installed on every lot.

5.7 Off-Site Improvements-Where necessary to serve the needs of the proposed subdivision and to protect the health, safety and general welfare of the community, the Planning Board may require that off-site improvements of Newport's Sewer or Water System be completed at the subdivider expense. Existing unpaved streets shall, whenever necessary, reasonable, and practical, be improved to the standards required by this ordinance.

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#### ARTICLE 6-WAIVER AND MODIFICATION OF THESE REGULATIONS

6.1 Where the Planning 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 of this ordinance provided that such waiver will not have the effect of nullifying the purpose of this ordinance, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance.

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

ARTICLE 7- REPEAL OF PREVIOUS SUBDIVISION ORDINANCE, VALIDITY, EFFECTIVE DATE, CONFLICT OR ORDINANCES AND FILING

7.1 The Town of Newport Subdivision Ordinance, adopted on June 9, 1975 at Town Meeting is hereby repealed.

7.2 Should any section or provision of this ordinance be declared by the courts to be invalid, such section 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.

7.3 The effective date of this ordinance is March 5, 1983.

7.4 Except as provided in Section 7.1 of this ordinance, this ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where this ordinance imposes a higher standard for the protection and promotion of health and safety, the provisions of this ordinance shall prevail.

ARTICLE 8-AMENDMENTS

This ordinance may be amended by a majority vote of the Town at Town Meeting.

ARTICLE 9-APPEALS

An appeal may be taken, within 30 days from the Planning Board's decision of the Final Plan, by any party to Superior Court in accordance with Rule 808 of the Rules and Civil Procedure.

ARTICLE 10- DEFINITIONS

10.1 Words and terms not defined in Section 10.2 shall have their customary dictionary meanings.

10.2 The following words and terms for the purpose of this ordinance, shall be designed as follows:

10.2.1 Subdivision-is the division of a tract or parcel of land into 3 or more lots within any five-year (5-year) period, where accomplished by

1. Sale or lease of land;
2. Offering to sell or lease land;
3. Construction, sale or lease of principal buildings; or
4. Offering to construct, sell or lease principal buildings.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot.

Exemptions-In determining whether a tract or parcel of land is divided into three or more lots, the following shall not be considered as lots for the purpose of this ordinance.

1. One lot which the subdivider has used for his principal residence for a period of at least 5 years immediately prior to the creation of a subdivision;
2. Any lot containing 40 or more acres;
3. Any lot conveyed as a gift to a person related to the subdivider by blood, marriage or adoption;
4. Any lot created by devise, condemnation or order of court;
5. Any lot transferred to the owner of land abutting thereon

A mobile home park shall be considered to be a subdivision.

10.2.2 Tract or Parcel of Land-All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract of land unless such road was established by the owner of land on both sides thereof.

10.2.3 Minor Subdivision-A subdivision with less than (6) lots which does not involve the construction or reconstruction of a street and/or the extension of public sewer and water lines and/or the construction of a storm drainage system.

10.2.4 Major Subdivision-A subdivision which is not a minor subdivision.

10.2.5 Street-A street means and includes such ways as alleys, avenues, boulevards, highways, roads, streets, and other rights-of-way intended for use of motorized vehicles.

10.2.6 Public Street-Any street which has been officially accepted by the Town of Newport as a public way.

10.2.7 Minor Street-A street which serves primarily as an access to abutting properties.

August 28, 2013

“Attest, a true copy of an ordinance entitled Town of Newport Subdivision Ordinance, as certified to me by the municipal officers of the Town of Newport, Maine, and adopted by the Town meeting on the 23<sup>rd</sup> day of March, 2013.

Signature:   
Paula A. Scott, Municipal Clerk

*Revised May 23, 2013, Special Town Meeting*