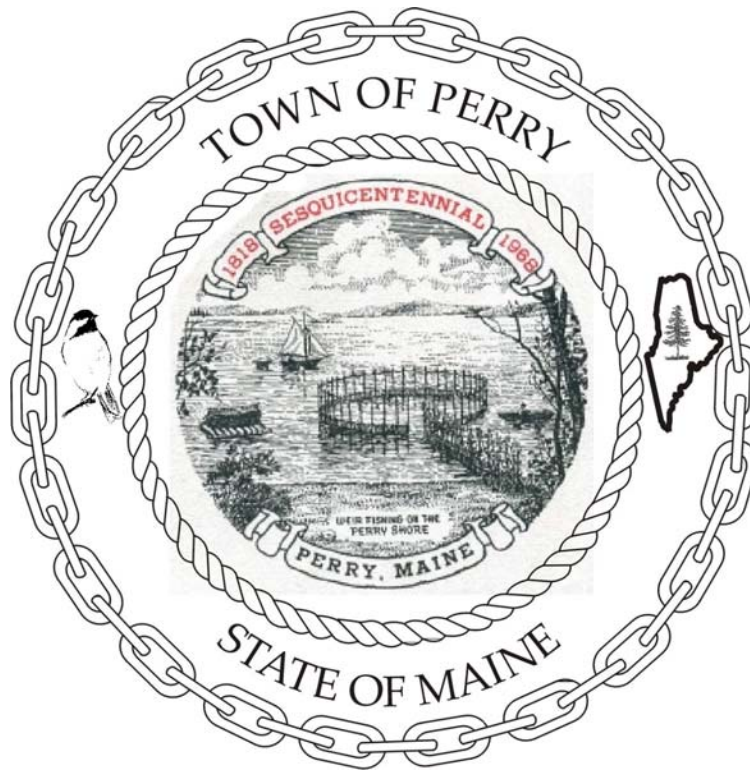


TOWN OF PERRY

SUBDIVISION ORDINANCE



ADOPTED:

TOWN OF PERRY

SUBDIVISION ORDINANCE

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THE SUBDIVISION ORDINANCE OF THE TOWN OF PERRY

I. PURPOSE AND AUTHORITY

- A. The purposes of this ordinance are to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Perry, Maine; to protect the environment; to promote the development of an economically sound and stable community; to assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures; to provide for the expeditious and efficient process for the review of proposed subdivisions; and to comply with Title 30-A, M.R.S.A., § 4403 and §4404.
- B. These standards shall be known and may be cited as “The Subdivision Ordinance of the Town of Perry”.
- C. The Planning Board of the Town of Perry, hereinafter called the Board, shall have the authority to administer this Ordinance.
- D. The Code Enforcement Officer of Perry, hereinafter called the CEO, shall have the authority to enforce this Ordinance.
- E. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review any new, revised or amended application shall be held jointly by the reviewing authorities from each municipality. The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.
- F. Development within a subdivision will additionally be in compliance with the standards set forth in the "Town of Perry, Land Use and Development Ordinance."

II. APPLICABILITY

- A. The provisions of this ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, M.R.S.A. § 4404 and to all mobile/manufactured home parks, condominiums, and apartment buildings or complexes which consist of three (3) or more dwelling units), within the boundaries of the Town of Perry.

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

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

1. Both divisions are accomplished by a sub-divider who has retained one of the lots for the sub-divider's use as a single-family residence or for open space as defined in Title 36 M.R.S.A., §1102 for a period of at least five years before the second division occurs; or

2. The division of the tract or parcel is otherwise exempted under this definition.

D. A lot of forty acres or more shall not be counted as a lot, except where the lot or parcel from which it was divided is located entirely or partially within any shore land area as defined in Title 38 M.R.S.A., § 435, or as defined by the municipality's shore land zoning ordinance.

E. Exceptions. The following divisions do not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations.

1. A division accomplished by devise; condemnation; or by order of court.

2. A division accomplished by a gift to a person related to the donor. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

3. A division accomplished by a gift to a municipality, if that municipality accepts the gift.

4. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot. If real estate exempt under this paragraph is transferred within five (5) years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.

5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23,

1971.

6. A grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest.

7. Proposed subdivisions approved by the Planning Board or municipal officials prior to September 23, 1971, subdivisions in actual existence prior to September 23, 1971, and subdivision plans legally recorded in the proper registry of deeds, prior to September 23, 1971.

8. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:

- a) That has been enjoined pursuant to section X, ENFORCEMENT; PROHIBITED ACTIVITIES;
- b) For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;
- c) For which a lot owner was denied a building permit and record of the denial was recorded in the appropriate registry of deeds; or
- d) That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

F. Whenever a subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, per this Subsection, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

- (1) Indicate the name of the current property owner;
- (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
- (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;
- (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and
- (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

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

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

III. ADMINISTRATIVE PROCEDURES

- A. In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to Board members and any applicants appearing on the agenda, and posted at the Town Office. Applicants shall request to be placed on the Board's agenda at least seven days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer (CEO).

Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the board's written agenda.

- B. Application forms must be accepted as complete by the Board before approval can be issued under this Ordinance. The Board may require additional information or studies at their discretion, should the initial application lack sufficient information necessary to determine that the project meets the criteria in Section IV and the Performance Standards in Section V below. The burden of proof that all criteria and Performance Standards have been met shall remain with the applicant.
- C. The applicant shall be responsible for notifying all abutting property owners by return receipt certified mail at least seven (7) days prior to the submission of an application to the Board. An application must be on file at the Town Office for seven (7) days before the Board can accept it as complete.
- D. Within thirty (30) days from receipt of an application, the Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, what specific additional material is needed to make a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed project.
- E. In the event that the Board determines to hold a public hearing on an application under this ordinance, it shall hold a public hearing within thirty (30) days after determining it has received a completed application , and shall cause notice of the

date, time, and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the Town at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. Costs associated with this notification shall be borne by the applicant.

- F. The Board, shall, within thirty (30) days of a public hearing or within sixty (60) days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in Section IV, the Performance Standards listed in Section V, and any other ordinances of the Town of Perry, and to protect and preserve the health, safety, and general welfare of the public.

IV. PRE-APPLICATION, SKETCH PLAN AND ON-SITE INSPECTION

- A. The purpose of the pre-application meeting is for the applicant to present general information regarding the proposed subdivision to the Board and to receive the Board's comments prior to the expenditure of substantial sums of money on the project. The pre-application meeting, the submittal or review of the sketch plan and the onsite inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A., § 302.
- B. The applicant shall present the pre-application sketch plan and make a verbal presentation regarding the site and the proposed subdivision. The pre-application sketch plan shall show in simple form the proposed layout of streets, lots, buildings, and other features in relation to the existing conditions. The sketch plan does not have to be engineered and should be supplemented with general information describing the existing conditions of the site and the proposed development. A copy of the U.S.G.S. topographic map of the area and copy of the county soils map for the area to be developed should also be presented at this time.
- C. Within thirty days of the pre-application meeting, the Code Enforcement Officer shall visit the site (unless there is more than one foot of snow on the ground) and prepare an inspection report for the Board.
- D. Following the pre-application meeting the Code Enforcement Officer shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.

V. SUBDIVISION APPLICATION PROCESS

- A. Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the

application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404.

1. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:

- a) Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;
- b) Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and
- c) Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

PRELIMINARY APPLICATION PROCESS

- A. The applicant, or his duly authorized representative, shall submit the preliminary plan to the Code Enforcement Officer. The applicant, or the applicant's representative, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application may result in a delay of the Board's review of the plan until the next meeting that the applicant attends. Within three days of the meeting at which an application for preliminary plan approval of a subdivision is initially presented, the Board, through the CEO, will issue a dated receipt to the applicant.
- B. Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- C. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant. If a public hearing is deemed necessary by the Board, all costs incurred in advertising and notifying abutters of a public hearing shall be borne by the applicant.
- D. Within thirty days from the public hearing or sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A,

M.R.S.A. § 4403. The Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.

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

PRELIMINARY PLAN REQUIREMENTS

A. The application for approval of a subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus assessor's map and lot numbers.
2. Verification of right, title, and interest to the property.
3. The date the plan was prepared, north point, and graphic map scale.
4. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and of adjoining property owners.
5. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
6. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property shall also be included.
7. A copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
8. An indication of the type of sewage disposal to be used in the subdivision:
 - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, an HHE-200 form of septic system design shall be submitted along with a map showing the location of all test pits dug on the site.
9. An indication of the type of water supply system(s) to be used in the subdivision: When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
10. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type and other essential existing physical features.

12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The width and location of any existing streets, highways, easements, building lines, parks and other open spaces on, adjacent to, or within the subdivision.
16. The location of any open space to be preserved and a description of proposed improvements and its management.
17. Any parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
19. If any portion of the subdivision is in a flood-prone area, the boundaries of any Special Flood Hazard Area, and the 100-year flood elevation, (if published) as depicted on the Federal Flood Insurance Rate Map (FIRM), shall be delineated on the plan.
20. A hydrogeologic assessment prepared by a certified geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and:
 - a. any part of the subdivision is located over sand and gravel aquifers, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by Maine Geological Survey, 1985 (File No. 98-138, 144, and 147); OR
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality.
21. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices* (Washington County Soil and Water Conservation District and the Maine DEP, March 1991).
22. A storm water management plan, prepared by a professional engineer is required. The Board may not waive submission of a storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes the drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
23. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the subdivision is located within an area designated as a critical natural area by the Maine Natural Areas program the plan shall indicate

- appropriate measures for the preservation of the values that qualify the site for such designation.
24. A plan for the location and dimensions of vegetative buffer strips.
 25. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places.
 26. The location and method of disposal for land clearing and construction debris.
 27. A letter from the Fire Chief indicating their review of the plan and their approval of the development.
 28. The checklist of the above listed application materials will be submitted as a cover page of the application.
 29. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

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

FINAL APPLICATION PROCESS

Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act
 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- A. Within six months after the approval of the preliminary plan, the applicant shall submit an application for approval of the final plan at least ten days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the CEO or delivered by hand to the municipal offices. Upon receipt of an application for plan approval of a subdivision, the CEO will issue a dated receipt to the applicant. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan. The final plan shall be in substantial conformance with the layout shown on the preliminary plan, plus any changes required by the Board.

- B. The applicant, or the applicant's representative, shall attend the meeting of the Board to present the final plan application. Failure to attend the meeting to present the preliminary plan application may result in a delay of the Board's review of the plan until the next meeting that the applicant attends.
- C. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- D. A non-refundable application fee of \$25 per lot or dwelling unit shall accompany all applications for final approval for a subdivision. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application if necessary. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant.
- E. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application and shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant. If the Board deems a public hearing necessary, all costs incurred in advertising and notifying abutters of a public hearing shall be borne by the applicant.
- F. Within thirty (30) days from the public hearing or sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A, M.R.S.A. §4404.
- G. If the preliminary plan identified any areas on or eligible to be listed on the National Register of Historic Places, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.
- H. In any subdivision where multi-user (in common) systems such as, but not limited to: wells and septic and disposal systems, storm water control, erosion control, or buffers, and where roads are being proposed, the developer shall vest ownership of each of these areas individually or collectively in a legal entity established under Maine law. Said entity shall consist of the same number of ownership shares as the proposed number of lots or units that are being created by the subdivision and initial ownership will be held by the developer. Prior to obtaining Final approval from the Planning Board, the developer must show evidence that this entity has been created according to the provisions specified. As each lot or unit is conveyed, the developer must transfer one share of ownership per lot or unit along with the title to the lot or unit. All deeds must make reference to ownership in this entity. At such time any road within a subdivision is accepted by the town, all costs associated with future maintenance and repair of said road shall be the responsibility of the Town. No other areas of common ownership can be transferred or assumed by the Town.

- I. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's review of the plan until the next meeting which the applicant attends.
- J. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- K. Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the final plan application.
- L. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time, and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing.
- M. The Board shall notify the road commissioner, town manager, school superintendent, police chief, and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial, or industrial buildings. The Board shall request that these officials comment upon the adequacy of their departments' existing capital facilities to service the proposed subdivision.
- N. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in **Title 30-A M.R.S.A., § 4404** and the standards of these regulations. If the Board finds that all of the criteria of the statute and the standards of these regulations have been met, they shall approve the plan. If the Board finds that any of the criteria of the statute or the standards of these regulations has not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the required standards will be met. The reasons for any conditions shall be stated in the records of the Board.

FINAL PLAN REQUIREMENTS

- A. The final plan for a subdivision shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can be easily read. Subdivision plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides.

- B. In addition to the listed required materials above, one paper copy of the final plan, reduced in size to 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information, shall be mailed to each Board member no less than seven days prior to the meeting.
- C. After approval of the final plan, two reproducible, stable-based transparencies shall be submitted, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office.
- D. The application for approval of any subdivision shall include the following information:
1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus assessor's map and lot numbers.
 2. Verification of right, title, and interest to the property.
 3. The date the plan was prepared, north point, and graphic map scale.
 4. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and of adjoining property owners.
 5. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
 6. A copy of the most recently recorded deed for the parcel.
 7. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property shall also be included. The location of any boundaries affecting the subdivision.
 8. A copy of any proposed deed restrictions or easements intended to cover all or part of the lots or dwellings in the subdivision.
 9. The numbers of acres within the subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
 10. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
 11. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
 12. An indication of the type of sewage disposal to be used in the subdivision:
 - a. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, an HHE-200 form of septic system design shall be submitted along with a map showing the location of all test pits dug on the site.
 - b. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
 - c. A written statement from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 13. An indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the

district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.

- b. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydro geologist familiar with the area.
 - c. A written statement from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
14. Wetland areas shall be identified on the survey, regardless of size.
 15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
 16. The width and location of any existing streets, highways, easements, buildings, parks and other open spaces on, adjacent to, or within the subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing, and length of street lines, lot lines, and parcel boundary lines shall be certified by a registered land surveyor. The reproducible plan shall be embossed with the seal of the registered land surveyor and be signed by that individual.
 17. Street plans meeting the requirement of Title **30-A M.R.S.A.**Section 10.15.
 18. The location of any open space to be preserved and a description of proposed improvements and its management.
 19. Any parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other document showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained are to be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
 20. A list of improvements, with cost estimates, that will be completed by the applicant prior to the sale of lots and evidence that the applicant has financial commitments or resources to cover these costs.
 21. A list of improvements and maintenance thereof, with both capital and annual operating cost estimates, which must be financed by the municipality, or quasi-municipal districts. The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision. These list shall include but not be limited to:
 - a. Schools, including busing
 - b. Street maintenance and snow removal
 - c. Police and fire protection
 - d. Solid waste disposal
 - e. Recreational facilities
 - f. Storm water drainage
 - g. Waste water treatment
 - h. Water supply
 22. The location and method of disposal for land clearing and construction debris.

23. A letter from (each) the Fire Chief and Selectmen indicating their review of the plan.
 24. Evidence of adequate financial capability to construct the project shall be provided in the form of a letter(s) from a certified financial institution(s) and/or a letter of credit. The board will allow alternative forms of evidence to be added to the application should particular circumstances warrant the substitution.
 25. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
 26. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's flood maps shall be delineated on the plan.
 27. A hydro geologic assessment prepared by a certified geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and:
 - a. Any part of the subdivision is located over sand and gravel aquifers, as shown on a map entitled "Hydro geologic Data for Significant Sand and Gravel Aquifers" by Maine Geological Survey, 1985 (File No. 98-138, 144, and 147); OR
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.
 - c. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality.
 28. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife. If any portion of the subdivision is located within an area designated as a critical natural area by the Maine Natural Areas program the plan shall indicate appropriate measures for the preservation of the values that qualify the site for such designation.
 29. A plan for the location and dimensions of vegetative buffer strips.
 30. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places.
 31. The location and method of disposal for land clearing and construction debris.
 32. A letter from the Fire Chief indicating their review of the plan and their approval of the development.
 33. The checklist of the above listed application materials will be submitted as a cover page of the application.
 34. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.
- E. The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:
1. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices*, (Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991). The Board may waive

submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

2. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
3. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
4. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorous control, the following shall be submitted or indicated on the plan:
 - a. A phosphorous impact analysis and control plan using procedures set forth in *Phosphorous Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. The analysis and control plan shall include all worksheets, engineering calculations, a construction specifications and diagrams for control measures, as required by the *Technical Guide*.
 - b. A long-term maintenance plan for all phosphorous control measures.
 - c. The contour lines shown on the plan shall be at an interval of no less than five feet.
 - d. Areas with sustained slopes greater than 25 % covering more than one acre shall be delineated.

VI. FINAL APPROVAL AND FILING

- A. Upon findings of fact and determination that all standards on **Title 30-A M.R.S.A., § 4404** and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing it's finding of fact and

reasons for any conditions or denials. One copy of the signed plan shall be forwarded to the code enforcement officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. The applicant shall notify the code enforcement officer when the plan was filed at the Registry.

- B. At the time the Board grants final plan approval, it may permit the plan to be implemented in two or more phases subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan. This incremental permitting will allow for orderly planning, financing and provision of public services that might be impacted by the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school, the Board shall require the plan to be divided into sections to prevent classroom overcrowding.
- C. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A. § 4404, and the standards of these regulations. In the event that a plan is recorded without complying with its requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds and the cost associated with such will be the responsibility of the applicant.
- D. The approval of the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreational area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

VII. PERFORMANCE STANDARDS

The performance standards are intended to clarify and expand upon the criteria for approval and are to be met by the developer.

When applicable the Board shall require road construction and drainage standards to be met. These standards are as provided for in the Land Use Ordinance as adopted by the Town of Perry, and are hereby incorporated as part of this ordinance.

A. Pollution:

The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental protection.

B. Sufficient Water

1. Water Supply

- a. Any subdivision within the area designated for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a “capped system” shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
- b. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.
- c. When a proposed subdivision is not within the area designated for public water supply service, water supply shall be from individual wells or a private community water system.
 1. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
 2. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

3. If the applicant provides a central water supply, the location and protection of the water source and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.

2. Water Quality

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

C. Impact on Existing Water Supplies

In meeting the standards, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering the improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district or company's system as necessary to alleviate existing deficiencies.

D. Soil Erosion

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and cleanup stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

E. Traffic Conditions

- A.** In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision.
 2. Avoid traffic congestion on any street; and
 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B.** More specifically, access and circulation shall also conform to the following:
1. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections.
 2. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left lane shall be done.
 3. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality. Back lots shall be accessed via internal roadways.
 4. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to, the names of existing streets within the municipality, and shall be subject to the approval of the Board. No street names shall be the common name of a given person. The developer shall either install the street name sign and traffic safety and control signs meeting municipal specifications, or shall reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board.
 5. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan and be suitably covered with fill and topsoil, limes, fertilized, and seeded.

F. Sewage Disposal

A. Public System

1. When a subdivision is to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
2. The Sewer District shall certify that providing service to the proposed subdivision is within the capacity of the public sewage system's collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
3. The Sewer District shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

B. Private Systems

1. When a proposed subdivision is not within the area for public sewage disposal, such disposal shall be private subsurface wastewater disposal or a private treatment facility with surface discharge.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits meeting the requirements for a new system represent an area large enough for a disposal area on soils meeting the Disposal Rules.
 - b. On lots in which the limiting factor has been identified as being within 15 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted from being built upon.
 - c. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

G. Solid Waste

1. If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract

with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility that is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

2. A letter from the transfer station manager shall be submitted referencing the ability of the facility to absorb the additional materials.

H. Impact on Natural Beauty Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

1. Preservation of Natural Beauty and Aesthetics: The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches measured at four feet about the ground, the replacement of trees and vegetation, and graded contours.

2. Retention of Open Spaces and Natural Historic Features
 - a. If any portion of the subdivision is located within an area designated as Resource Protection by the Town of Perry's Shoreland Zoning map, or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
 - b. If any portion of the subdivision is designated a site of historic or prehistoric preservation by the Maine Preservation Commission, appropriate measures for the protection of historic or prehistoric resources shall be included in the plan.

3. Protection of Significant Wildlife Habitat
 - a. The applicant shall demonstrate that there shall be no adverse impacts on the habitat and species said habitat supports.

A report prepared by a wildlife -biologist certified by the Wildlife Society demonstrated experience with the wildlife resource being impacted shall be submitted if any portion of the proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:

1. Habitat for species appearing on the official state or federal lists

- of endangered or threatened species; or
- 2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas.

This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

- b. Existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights of way, or shall be included in the open space with provisions made for continued public access.

I. Financial and Technical Capacity

1. Financial Capacity

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations of financial capacity the Board shall consider the proposed time frame for construction and the effects of inflation, evidence of financial institutions, corporation papers from other investors in the project and references from past projects completed successfully.

2. Technical Ability

- a. The applicant shall retain qualified contractors and consultants to supervise, construct, and inspect the required improvements in the proposed subdivision.
- b. In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant. Documentation of abilities may consist of letters of reference from past projects and/or professional certifications.

J. Impact on Ground Water Quality or Quantity

1. Ground Water Quality.

When a hydro geologic assessment is submitted, the assessment shall contain at least the following information:

- a. A map showing the basic soils types.
- b. The depth to the water table at representative points throughout the subdivision.
- c. Drainage conditions throughout the subdivision.
- d. Data on the existing water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
- e. An analysis and evaluation of the effect of the subdivision on ground water resources.
- f. A map showing the location of any subsurface water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- g. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by onsite ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

2. Ground Water Quantity

Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

K. Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- a. All public utilities and facilities, such as sewer, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
- b. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- c. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sales agreement, or document transferring or expressing any intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction

requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

L. Identification of Freshwater Wetlands

Freshwater wetlands shall be identified in accordance with the 1987 *Corps of Wetlands Delineation Manual*, published by the United States Army Corps of Engineers and subsequent revisions.

M. Storm Water Management

Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under drains, storm drains, and best management practices equivalent to those described in *Storm water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, and any subsequent revisions. The storm Water management system shall be designed to meet the following standards.

- a. Quantity: Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm.
- b. Quality: Storm water run-off in a subdivisions must be treated by the use of best management practices equivalent to those described in the *Storm water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, and any subsequent revisions, to achieve, by design, a 40 % reduction in total suspended solids.
- c. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. Whenever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

N. Spaghetti-lots prohibited

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B,

none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

O. Impact on adjoining municipality

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

P. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.

VIII. PERFORMANCE GUARANTEES

Requiring and enforcing performance guarantees is the best insurance a municipality can have that a developer will do what is promised in the land use approval process. A guarantee shall be instituted when a project consists of more than six lots and the construction of an interior private or public road.

A. Types of Guarantees. With submittal of the application for plan approval, the sub-divider shall provide **one** of the following Performance Guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rates for construction costs.

1. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed; or
2. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers; or
3. An irrevocable letter of credit from a financial institution establishing adequate funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers.

The conditions and amount of the Performance Guarantee shall be determined by the Board with the advice of the road commissioner, municipal officers, town attorney, and/or an engineer employed by the Town to review the proposed development.

- B. Contents of the Guarantee.** The Performance Guarantee shall contain a construction schedule, costs estimates for each major phase of construction (taking inflation into account), provisions for inspections of each phase of construction, provisions for the release of part or all of the Performance Guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.
- C. Release of Guarantee.** Prior to the release of any part of the Performance Guarantee, the Board shall determine to its satisfaction, in part upon the report of the Road Commissioner and/or an engineer employed by the town and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- D. Default.** If, upon inspection, the CEO and/or selectmen finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the municipal officers, the Planning Board and the subdivider or builder. The municipality's officers shall take any steps necessary to preserve the municipality's rights.
- E. Improvements Guaranteed.** Performance Guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.
- F. Phasing of Development.** The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- G. Conditional Agreement.** The Board at its discretion may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no more than four lots may be sold or built upon until either:
1. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
 2. A performance guarantee, acceptable to the municipality, is submitted in

an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and pro-rated for the portions of the required improvements already installed.

IX. APPEALS

An aggrieved party may appeal any decision of the board under this ordinance to the Superior Court within thirty (30) days from the date of written notice of the decision.

X. ENFORCEMENT; PROHIBITED ACTIVITIES

- A. No person, firm, corporation or other legal entity may sell or offer to sell, lease, develop, build upon, gift, or convey for consideration, any project to which this ordinance applies before acquiring the approval of the Planning Board. Failure to comply with the provisions of this ordinance or conditions or terms of approval shall be punishable by a fine of not more than one thousand dollars (\$1000) for each transaction.

XI. FEES

Each application shall be accompanied by a fee of two hundred fifty dollars (\$250) plus ten dollars (\$10) per dwelling unit or lot.

A non-refundable application fee per lot or dwelling unit, to be set by the selectmen, shall accompany all applications for final approval for a subdivision.

XII. AMENDMENTS

- A. These regulations may be amended by:
 - 1. The Legislative Body of the Town of Perry
 - 2. The Planning Board if the Legislative Body has not adopted or amended the standards.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

XIII. DEFINITIONS

In general, words and terms in these regulations shall have their customary dictionary meanings.

Applicant: The person applying for subdivision approval under these regulations.

Arterial Street: A major thoroughfare that serves as a major traffic way for travel between and through a municipality.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with the cost estimates and the anticipated means of financing each project.

Certified Soil Scientist: As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote of the Board to waive the submission of required information. The board shall issue a written statement to the applicant upon its determination that an application is complete.

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

Density: The number of dwelling units per acre of land.

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

Direct Watershed of a Great Pond: that portion of the watershed that drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated on the Shoreland Zoning Map as revised November 5, 1991. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

Driveway: A vehicular access way serving two dwelling units or less.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD₅ (five-day biochemical oxygen demand) and total suspended solids concentrations than domestic water. [Any engineered system must be reviewed and approved by the Department of Human Services' Plumbing and Waste Water Disposal Program prior to the issuance of a permit by the local plumbing inspector.]

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

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres and any inland body of water artificially formed or increased which has a surface area in excess of thirty acres, except for purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the Soil Survey of Kennebec County Maine (published by the National Cooperative Soil Survey). The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High Water Mark - Inland waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high- watermark is the upland edge of the wetland, and not the edge of the open water.

Multifamily Development: A subdivision that contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Municipal engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown in the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as referenced

Net Residential Density: The average number of dwelling units per net residential acre.

New Structures or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

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

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

Professional Engineer: A professional engineer, registered in the State of Maine.

Professional Land Surveyor: As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

Public Improvements: The term shall include all roads; fire protection structures and ponds; any structure or land proposed to be dedicated to the Town; any land or structure which is offered an easement to the Town; and, all storm water drainage structures that are designed to allow water to flow outside the property or the subdivision.

Recording Plan: The original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on such a plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these ordinances as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

Street: Public and private ways such as alleys, avenues, highways, roads, and other right-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

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

Tract of 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 or parcel of land unless such road was established by the owner of the land on both sides thereof.

Usable Open Space: That portion of common open space that due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture, or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding ten percent (10%).

Vernal pools: are temporary pools of water that provide habitat for distinctive plants and animals. They are considered to be a distinctive type of wetland usually devoid of fish, and thus allow the safe development of natal amphibian and insect species unable to withstand competition or predation by fish.

Wetland: Areas which are 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 are not part of a great pond, river, stream, or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This is also meant to include forested wetlands.