

**SUBDIVISION ORDINANCE
TOWN OF MONTVILLE**

AMENDED: MARCH 25, 1995

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March 25, 1995

SUBDIVISION ORDINANCE

Town of Montville, Maine

ARTICLE I: TITLE

This Ordinance shall be known and may be cited as the "Subdivision Ordinance of the Town of Montville, Maine."

ARTICLE II: AUTHORITY, ADMINISTRATION AND JURISDICTION

- A. Authority
This Ordinance is enacted under the authority granted to the Town by the statutes of the State of Maine, and in accordance with the provisions of Title 30 M.R.S.A. Section 4956. The existing Montville Subdivision Ordinance is hereby repealed.
- B. Administration
This Ordinance shall be administered by the Planning Board of Montville, hereinafter called "the Board."
- C. Jurisdiction
The provisions of this Ordinance shall pertain to all land proposed for subdivision, as herein defined, located within or partly within the boundaries of the Town of Montville, pursuant to the home rule provisions of 30 M.R.S.A. 1917 and 2151A.

ARTICLE III PURPOSES

The purposes of this Ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Montville; to protect the environment, natural resources and to preserve the rural character of the Town, and to promote the orderly development of an economically sound and stable community in accordance with the Town's comprehensive Plan. To this end, in approving subdivisions within the Town, the Planning Board shall consider the following criteria, and before granting approval shall make findings of fact that the provisions of this Ordinance have been met. The proposed subdivision:

- A. will not result in undue water, soil or air pollution. In making this determination, the Board shall at least consider the elevation of the land and its relation to flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents;

- B. has sufficient potable water available for the foreseeable needs of the subdivision, and an adequate supply of water for fire control;
- C. will not cause an unreasonable burden on an existing water supply;
- D. will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. will not cause unreasonable road congestion or unsafe conditions with respect to use of existing or proposed roads;
- F. will provide for adequate solid and sewage disposal;
- G. will not cause an unreasonable burden on the ability of the Town of Montville to dispose of solid waste and sewage or septage if Town facilities are to be utilized;
- H. will not have an adverse effect on the scenic or natural beauty of the area, wildlife habitat, aesthetics, rural character, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to Montville's ponds, rivers and streams;
- I. is in conformance with a duly adopted Subdivision Ordinance, Comprehensive Plan, and all State and local ordinances, laws and regulations. In making this determination, the Planning Board is authorized to interpret these ordinances and plans;
- J. the subdivider has proven adequate financial and technical capacity to meet these standards;
- K. whenever situated in whole or in part within the watershed of any pond, river or stream, will not adversely affect the quality of that body of water. Furthermore, when lots in a subdivision have frontage on an Outstanding River Segment, as defined in 30 M.R.S.A. 4956, the proposed subdivision plan shall require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of five hundred feet. (i.e. the Sheepscot River from Wiscasset to the Halldale Road, St. George River - excluding Trues Pond).
- L. will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- M. will require construction of dwellings with their lowest floors, including basements, at least on foot above the 100-year flood elevation.

ARTICLE IV: PREAPPLICATION

- A. The applicant shall request to be placed on the Planning Board's agenda one week in advance of a scheduled monthly meeting, and will attend that meeting to submit a sketch plan showing proposed layout of roads, lots, and other features in relation to existing conditions. The sketch plan shall be outlined on a copy of the USGS topographic map and a copy of the Assessor's map showing abutting property owners.
- B. The applicant shall submit the required Preapplication fee, as specified by a separate fee schedule available from the Board.
- C. Within 30 days the Board will hold an on-site inspection of the property and inform the applicant of anticipated problems and/or recommendations concerning the proposed subdivision. Prior to the inspection, proposed roads and corners of lots will be clearly marked by colored "flagging."
- D. The submittal or review of the sketch plan 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.

ARTICLE V: PRELIMINARY PLAN

- A. Within six months after the sketch plan has been reviewed by the Board, the subdivider shall submit an application for approval of a Preliminary Plan after requesting to be placed on the agenda of a scheduled Planning Board meeting one week in advance. Failure to act within the six month time frame may require the applicant to resubmit the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval shall be accompanied by the required Preliminary Plan fee payable to the Town of Montville.

In addition, the Board may set an amount to be added to the base fee paid by the subdivider, sufficient to enable the Board to secure outside technical assistance in reviewing the proposed subdivision, and sufficient to cover the cost of public hearings. The balance of unused additional fees will be returned to the applicant.

- C. The subdivider or duly authorized representative shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The Applicant shall provide written notice, sent certified return receipt to all owners of abutting property, including abutters to any right-of-way leading to the subdivision, that an application for subdivision approval has been submitted to the Board, including the date of the meeting at which it will be discussed. If the proposed subdivision will have

an impact on any town bordering Montville, the Board will notify that town's Selectmen. A copy of certified return receipts shall be submitted to the Board.

- E. The Preliminary Plan shall be submitted in ten copies to the Planning Board and shall be drawn to a scale of not more than 100 feet to the inch. The plan shall include:
1. A location map showing the relationship of the proposed subdivision to adjacent properties, including existing and proposed roads, boundaries, lot lines, boundaries of zoning districts.
 2. Proposed name of subdivision and the Tax Assessor's Map and Lot numbers.
 3. The date the plan was prepared, magnetic north point, graphic map scale, names and addresses of the recorded owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
 4. The names and addresses of recorded owners of abutting property, including abutters across a road or adjacent to a right-of-way leading to the subdivision.
 5. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a Licensed Land Surveyor. The corners of the tract shall be located on the ground and marked by colored "flagging".
 6. A copy of the deed on which the survey was based; a five year title history; and all covenants, deed restrictions, easements, rights-of-way or other encumbrances currently affecting the property.
 7. A copy of proposed covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 8. A map showing contour lines at the interval of five (5) feet showing elevations in relation to Mean Sea Level and a map showing areas where slopes are fifteen percent (15%) to thirty percent (30%), and over thirty percent (30%) drawn on a scale of fifty feet to the inch.
 9. The number of acres within the proposed subdivision, all land identified as not suitable for development, location of property lines, existing buildings, watercourses, areas containing significant wildlife habitat or deer wintering areas, stone walls, vegetative cover type, and other essential physical features.
 10. The proposed lot lines with dimensions and lot areas.

11. Indication of the type of sewage disposal to be used in the subdivision. A soil analysis for a subsurface sewage disposal system shall be prepared by a Licensed Site Evaluator and the location of the test sites marked on the plan, with an indication of the water table level marked at each test site. The soil analysis shall be prepared using the State of Maine form HHE 200.
12. Indication of the type of water supply system(s) to be used in the subdivision. Where the Board deems necessary, it will require a history of land use and water quality in the area.
13. The location and size of existing and proposed sewage disposal systems, wells, natural or constructed culverts within the proposed subdivision or within 100' of any boundary.
14. The location, names and widths of existing and proposed roads, easements, and rights-of-way.
15. Location of all parcels of land proposed for common use of lot owners with an indication of its proposed improvement and management, and open space to be preserved; easements proposed to serve as wooded or planted screening from existing public roads.
16. A copy of the Waldo County Soils Survey Map covering the subdivision. Where that soil survey shows soils which are generally unsuitable for the proposed uses, or when a subdivision is located within the watershed of a body of water the Board shall require the submittal of a high intensity soils survey and a report by a registered Soils Scientist indicating the suitability of soil conditions for the proposed uses.
17. A soil erosion and sedimentation control plan endorsed by the Soil Conservation Service District Conservationist, including a plan for the disposal of surface drainage waters and storm water runoff control showing sizes of culverts and ditches, and proposed maintenance. This plan shall be designed to prevent erosion, not only for the completed project, but also for each phase of instruction during development.
18. A traffic impact analysis to include an estimate of the number of daily vehicle trips generated by the project and statement of sight distances at intersections of access roads to the subdivision and existing roads.
19. If any portion of the proposed subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

20. Location of the proposed subdivision on the map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers" by the Maine State Geological Survey. The Board may require a hydrogeologic assessment prepared by a Certified Geologist or a Registered Professional Engineer, experienced in hydrology, if any part of the subdivision is located over a sand and gravel aquifer.
- F. Within thirty days of receipt of a Preliminary Plan application, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required. Upon determination that an application is complete, the Board shall issue a dated receipt to the subdivider.
- G. The Board shall hold a public hearing within thirty days of receipt of a complete application, and shall publish notice of the hearing in local newspapers and post in public places.
- H. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, or within another time limit as may be mutually agreed to be the Board and the subdivider, make findings of fact on the application and approve, approve with conditions, or deny the Preliminary Plan.
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve Final Plan. The Final Plan shall be submitted for approval upon fulfillment of the requirements of this Ordinance and the conditions of Preliminary Plan approval. Prior to approval of the Final Plan, the Board may require additional changes and/or submissions as a result of further study of the subdivision or new information received.

ARTICLE VI FINAL PLAN

- A. Within six months after approval of a Preliminary Plan, the applicant shall request to be placed on the agenda one week in advance of a regular Planning Board meeting, and shall submit an application for approval of a Final Plan, accompanied by the required Final Plan fee. If the Final Plan is not submitted to the Planning Board within this period, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan.
- B. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, Natural Resources Protection Act.
 2. Maine Department of Human Services, if the subdivider proposes to provide a central water system.

3. Maine Department of Human Services or a State licensed plumbing inspector, if a centralized or shared subsurface sewage disposal system is to be utilized.
- C. Within thirty days of receipt of an application for approval of a Final Plan, the Board shall determine either that the application is complete, or will notify the applicant of what, if any, further submissions are required. Upon determination that the application is complete, the Board shall issue a dated receipt to the subdivider.
 - D. Within thirty days, the Board shall hold a public hearing on the complete application, to be advertised in local newspapers and post in public places. When the Board determines that a proposed subdivision will have an impact on a neighboring town, or a body of water within that town, the Applicant shall notify the Selectmen of that town.
 - E. The subdivider, or a duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
 - F. The subdivider shall submit a performance bond or guarantee in a form and amount meeting the requirements of Article VIII to secure the completion of all improvements required by the Board, and written evidence that the Town Selectmen have reviewed and approved the bond or guarantee.
 - G. A Final Plan shall be submitted to the Planning Board which shall consist of one original drawn on durable, permanent transparency material and ten copies of one or more maps or drawings, drawn to the same scale and on the same size sheet as the Preliminary Plan, unless otherwise directed by the Board. Space shall be reserved for the signatures of the Planning Board and the date of approval following the words, "Approved: Town of Montville Planning Board, Pursuant to Title 30 M.R.S.A. Section 4956." The application for Final Plan Approval shall include the following:
 1. All of the information presented on the Preliminary Plan and Location map and any amendments thereto suggested or required by the Planning Board.
 2. The name, registration number and seal of the Land Surveyor, architect, engineer or planning consultant who prepared the plan.
 3. The subdivider shall notify the Town Road Commissioner, Fire Chief, Superintendent of Schools, and Selectmen of the number of house lots or dwelling units planned. The subdivider shall request comments on the adequacy of each of their departments' existing facilities to serve the subdivision. Their comments shall be submitted as part of the Final Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision on the Town based on the Purposes stated in Article III of this Ordinance.

4. Written offers of cession, in a form certified as satisfactory by the Town Attorney, of all land or roads proposed to be dedicated to the Town. Also, copies of agreements or documents showing the manner in which open spaces to be retained by the subdivider or lot owners are to be maintained.
 5. Written approval from the Board of Appeals for variances or specified exceptions, if required, and any conditions imposed.
 6. A list of construction items with cost estimates that will be completed by the subdivider prior to the sale of lots and a complete and detailed schedule of construction as it proceeds to completion of the project.
 7. Detailed construction drawings and specifications drawn by a Professional Engineer or other qualified individual, showing:
 - a. Water supply system(s)
 - b. Sewage disposal system(s)
 - c. Road profiles and cross-sections
 - d. Soil erosion and sediment control system
 - e. Surface drainage and storm water runoff system
- H. Within thirty days of a public hearing or within sixty days of receiving a completed application, or such other time limit as may be mutually agreed to, the Planning Board shall approve, approve with conditions, or deny the Final Plan. In issuing its decision, the Planning Board shall make findings of fact, in writing, that the proposed subdivision does or does not meet the provisions of this Ordinance. Upon approving the Final Plan, those members of the Planning Board voting for approval shall sign the original plan of the subdivision.
- I. No Final Plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan.
- J. At the time the Board grants Final Plan approval, the subdivider shall forward one copy of the signed plan to the Tax Assessor and one copy of the signed plan to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date of approval shall become null and void.
- K. No changes, erasures, modifications or revisions shall be made on any Final Plan after approval has been signed by the Planning Board, except as specified in Article X (C) of this Ordinance. In the event that an amended Final Plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Town and Registry of Deeds and/or enjoin any development attempted or commenced pursuant to said Plan.

- L. At the time the Board grants approval to a Final Plan, it may permit the Plan to be divided into two or more sections subject to reasonable conditions the Board deems necessary in order to insure the orderly development of the subdivision.
- M. The approval by the Board of a subdivision shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement or open space shown on such Plan. The Board shall require the Plan to contain appropriate notes to this effect.
- N. Failure to complete 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 determination that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to this effect.

ARTICLE VII: GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

- A. **OPEN SPACE** The subdivider shall reserve a minimum of ten percent of the area of the subdivision as open space, to be left in its natural state, to be considered an integral feature of the plan design, and protected by appropriate deed restrictions.
 - 1. If the proposed subdivision contains pond or stream frontage, a portion of that frontage shall be reserved for public access; such public rights or access to the shoreline shall be maintained by easements or rights-of-way, with provisions made for continued public access.
 - 2. If the proposed subdivision contains any identified historic sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by deed restrictions and management plans.
 - 3. If any areas in the proposed subdivision are identified by the Department of Inland Fisheries and Wildlife as deer wintering areas or other critical wildlife habitat, the subdivider shall be required to develop a plan to reduce the adverse impact of the subdivision on wildlife populations.
 - 4. If the Planning Board determines that land within a subdivision is not suitable or is insufficient in amount, a payment-in-lieu of dedication shall be calculated at the market value of the land at the time of the subdivision, as determined by the Tax Assessor, and deposited into a Town Land Acquisition Fund.
- B. **LOT DIMENSIONS**
 - 1. All lots shall be a minimum of two acres in size, with road frontage of two hundred

fifty feet (250'). Any pond or stream frontage shall be a minimum of two hundred fifty feet (250'). Buildings, wells and subsurface sewage disposal systems shall be set back from front, side and rear lot lines by a minimum of fifty feet (50').

Exception: For Mobile home park as defined by Title 30-A, M.R.S.A. section 4358, minimum lot size, minimum overall density, minimum frontage, minimum buffet strips, and minimum setbacks shall be the maximum allowed by said statute or its revisions.

2. Lots having less than 500' frontage shall have a ratio of lot length to width of no more than three to one. Odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
3. Wherever possible, side lot lines shall be perpendicular to the road.
4. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum lot size requirements, it may not be combined with a lot on the other side of the stream, road, or other barrier to meet the lot size requirement.
5. Permanent iron pipe or stone monuments shall be set at all corners and angle points of the boundaries of lots and open space.
6. The Planning Board shall require deed restrictions when applicable, to be included in the deeds of lots to be sold, regarding setbacks, location of access, landscape, further division or subdivision of lots, and/or any areas within Montville's Minimum Shoreland Zoning Ordinance.
7. Any further division of a lot in an approved subdivision shall be subject to the requirements of this Ordinance for review and approval by the Planning Board.

C. LAND NOT SUITABLE FOR DEVELOPMENT The following lands shall not be included in the calculations of lot area for the purpose of meeting minimum lot size requirements:

1. Areas located within the one hundred year flood plan as identified by an authorized Federal or State agency, unless the applicant shows proof through the submission of material prepared by a registered Land Surveyor which shows that the property in question lies at least two feet above the one hundred year flood plan.
2. Land which is part of a right-of-way or easement, including utility easements.
3. Land which has a water table within ten inches of the surface for at least three months of the year as identified by the Waldo County Soil Survey, or areas comprised of fifty percent or more of poorly drained soils.
4. Land that has been created by filling or draining a wetland or pond.

5. Portions of land containing a topographical slope of thirty percent or more.

D. WATER SUPPLY SYSTEMS

1. If a central water supply system is provided by a subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.

E. SEWAGE DISPOSAL The subdivider shall submit evidence of soil 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. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance.

F. LAND FEATURES

1. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads and building excavations. Extensive grading and filling shall be avoided, with lots and roads conforming to the terrain.

2. Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.

3. To prevent soil erosion in shoreline areas, the landscape within twenty-five feet (25') of any pond, river or stream shall be preserved in its natural state by restricting tree removal to minimal thinning and pruning of trees, with no clear-cut sections, to provide visual access to the shoreline, while preserving natural beauty and erosion control.

4. The Board shall require that the development plans include a landscape plan that will show the preservation of trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic or environmentally important areas. A planting screen easement of at least twenty feet, across which there shall be no right of access, shall be provided along the line of lots abutting an existing public road.

5. Stone walls that were fitted and built by early settlers of Montville shall be considered historic features, and shall be preserved where practical.

G. CLUSTER DEVELOPMENT The purpose of this provision is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted otherwise by this Ordinance. To this end, the layout and dimensional requirements of the lots may be altered. In no instance shall cluster design be used as a means to include areas of land that are unsuitable for development, as specified in Article VII Section C.

1. All the requirements and standards of this Ordinance, except those dealing with lot size, layout, setbacks and dimensions, shall be met.
2. The minimum area of land in a cluster development shall be ten acres.

H. GENERAL REQUIREMENTS FOR ROAD DESIGN AND CONSTRUCTION

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured, and the rural character of Montville shall be preserved, by providing a maximum of two driveways per one thousand feet (1,000') of frontage on an existing public road.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to the lots. The subdivider will provide maintenance and snow removal for private roads.
3. The road giving access to the subdivision shall have a traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision. Such improvements shall be at the expense of the subdivider.

I. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within subdivisions reviewed under this Ordinance and shall control the roadway, shoulders, drainage systems, culverts and other improvements.
2. Roads shall be designed to discourage through traffic within a subdivision as well as cross-section (four-cornered) roads.
3. The following design standards apply according to road classification:

DESCRIPTION	PUBLIC RIGHTS-OF-WAY	PRIVATE RIGHTS-OF-WAY
Minimum right-of-way width	50'	50'
Minimum pavement width	18'	18'
Minimum shoulder width (each side)	3'	3'
Minimum grade	.5%	N/A
Minimum centerline radius	150'	150'
Roadway crown	1/4"ft.	N/A
Minimum angle of road intersections	90°	90°
Minimum curb radii at intersections	15'	N/A
Maximum grade within 75' of intersection	2%	N/A
Minimum r/o/w radii at intersection	10'	10'

4. In addition to the design standards above, dead-end roads shall be constructed to provide a turn-around and the road length shall be a maximum of one-half mile, unless lot density is reduced by one-half.
5. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances.

J. ROAD CONSTRUCTION STANDARDS

1. Minimum thickness of material after compaction for both public and private rights-of-way shall be as follows:
 - Aggregate Sub-base Course (Max. 4-" Stone).....12"
 - Aggregate Base Course (Max. 2-" Stone).....6"
2. Before any clearing has commenced on a right-of-way, the center line or side lines of the new road shall be staked or flagged at fifty foot intervals.
3. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed, fertilized and seeded.
4. Following road construction, the subdivider shall conduct a thorough cleanup of stumps and debris from the entire road right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be covered with fill and topsoil, limed, fertilized and seeded.

K. GENERAL REQUIREMENTS FOR DESIGN OF STORM WATER RUNOFF CONTROL AND SURFACE WATER DRAINAGE

In recognizing that erosion and storm water runoff introduce significant amounts of additional nutrients resulting in the major source of pollution in our waterways and ponds, the Montville Planning Board strongly recommends the subdivider utilize the latest revision of the Environmental Quality Handbook published by the United States Soil Conservation Service.

1. The storm water runoff control system and the surface water drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption of runoff waters shall be utilized to minimize discharges from the site. If it is not possible to detain water on-site, downstream improvements to the channel may be required by the Planning Board to prevent flooding. Such improvements shall be at the expense of the subdivider.
2. The design of piped or open channel systems will be based on a ten-year flow frequency without overloading or flooding beyond channel limits. In addition, areas expected to be flooded by a runoff of a 25-year frequency will be designated, and no structures constructed within such area.
3. Sediment basins or infiltration basins shall be installed where necessary.

4. For subdivisions within the direct drainage of a pond or stream, runoff shall be managed to infiltrate on-site any excess runoff created by the subdivision for a one-year twenty-four hour storm, through the use of tile drains, infiltration basins, or other suitable measures.
5. Inlets and outlets of drainage structures shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
6. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water control system.

ARTICLE VIII: PERFORMANCE GUARANTEES

- A. With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount equal to 125% of the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs, and specifying a date after which the subdivider will be in default.
 1. A certified check payable to the Town of Montville, a savings account passbook or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
 2. A performance bond payable to the Town issued by a surety company licensed to do business in the State of Maine.
 3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Town Selectmen.
- B. A conditional agreement, if acceptable to the Board in lieu of a performance guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, until the completion of the road construction, drainage, utilities and other similar improvements as specified on the Final Plan. The agreement shall be conditioned upon the completion of all such improvements within two years from the date of Final Plan approval.
- C. Completion of required improvements shall be determined by the Planning Board upon receipt of written and signed certifications by the Code Enforcement Officer or other qualified person stating that all improvements assured by the performance guarantee or conditional agreement have been constructed in accordance with the Final Plan and all applicable codes and Ordinances. The Planning Board may hire, at the applicant's

expense, a Professional Engineer or other qualified person to represent the Town in inspecting and monitoring the construction or required improvements.

- D. The performance guarantee shall be released by the Planning Board upon the request of the applicant only after the requirements of paragraph (C) above have been met to the satisfaction of the Board.

ARTICLE IX: WAIVERS

Where the Planning Board makes written findings of fact that there are special circumstances of a particular parcel of land proposed to be subdivided, it may waive portions of the submission requirements or general standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Minimum Shoreland Zoning Ordinance, State and Town Laws and codes, and this Ordinance.

Furthermore, in order to encourage the preservation of the rural character of Montville, the Planning Board will, by waiver, substantially reduce or modify the submission requirements and general standards, to whatever extent they determine feasible, where proposed lots contain twenty (20) or more acres, provided the public health, safety and welfare are protected, and provided such waivers do not nullify the intent and purposes of the Comprehensive Plan, M.S.Z.O., State and Town Laws and codes, and this Ordinance.

ARTICLE X: ENFORCEMENT

- A. Development of a subdivision without Board approval shall be a violation of the law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approval as provided in this Ordinance and recorded in the Registry of Deeds.
- B. After approval of the final plan, and before any construction begins, the applicant shall apply for and receive all applicable permits as may be required by the Town, State, or Federal regulations, laws or ordinances regulating such developments and said permits. A copy to be sent to the Board prior to construction.
- C. At least five days prior to commencing each major phase of construction or required improvements (i.e. roads, runoff controls, septic systems, major land clearing or earth moving, etc.), the subdivider shall notify the Code Enforcement Officer in writing of the time when construction will commence to facilitate inspections of each major phase of construction.
- D. If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code

Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one percent, etc., the subdivider shall obtain permission to modify the plan from the Board.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered Land Surveyor, stating that all monuments have been installed.
- F. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- G. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- H. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- I. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No dwelling unit shall be occupied before the road upon which the unit is accessed is complete in accordance with this Ordinance.
- J. Any person, firm, corporation or other legal entity who violates the provisions of this Ordinance shall be guilty of a civil violation and shall be fined not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2500) for each violation. Each conveyance, offering or agreement to transfer and in a subdivision which has not been approved as required by this Ordinance is a separate violation. Each day that a violation of the terms of the subdivision permit continues shall constitute a separate violation. All fines shall be paid to the Town of Montville. Such persons shall also be liable for court costs and attorneys fees incurred by the Town if the Town is the prevailing party.

ARTICLE XI: APPEALS

An aggrieved party may appeal any decision of the Board under this Ordinance to Waldo County Superior Court within thirty days.

ARTICLE XII: VALIDITY, SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. Should any article or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other article or provision of the Ordinance.

- B. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other Ordinance, the more restrictive requirements shall apply, as interpreted by the Board.

ARTICLE XIII: DEFINITIONS

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

ABUTTER: One whose property abuts, is contiguous, or joins at a border or boundary, including property across a road.

CLUSTER DEVELOPMENT: A subdivision in which the lot sizes are reduced below the Town's minimum lot size and permanent open spaces are increased in area of acreage. Clustering shall not be used to increase the net residential density of the subdivision.

CODE ENFORCEMENT OFFICER: A person appointed by the Selectmen to administer and enforce State and Town Ordinances, Laws and codes. The Planning Board shall act in this capacity in the absence of a Code Enforcement Officer.

COMPLETE APPLICATION: An application shall be determined complete by the Planning Board upon submission of the required fees and all information required by this Ordinance for a Preliminary Plan and a Final Plan.

COMPREHENSIVE PLAN: Any part or element of overall plan or policy for future development of the Town as defined in Title 30, M.R.S.A., Section 4961 or H.P. 1688-L.D. 2317, "An Act to Promote Orderly Economic Growth and Natural Resources Conservation."

DEVELOPED AREA: Any area which a site improvement or change is made, including buildings, landscaping, parking areas, roads.

DRIVEWAY: A private vehicular entrance from a road or right-of-way.

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, sleeping, bathing or sanitary facilities, including single family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

FINAL PLAN: The final drawings on which the subdivider's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed with the Selectmen and recorded in the Registry of Deeds.

FRONTAGE: The linear distance between the sidelines of a lot, measured along the lot line that borders the right-of-way serving as legal access to the lot.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high water elevation.

HIGH INTENSITY SOIL SURVEY: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the Maine Association of Soil Scientists, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single test pits and their evaluation shall not be considered to constitute a high intensity soil survey.

HYDROGEOLOGIC ASSESSMENT: An evaluation drawn by a Geologist or other qualified individual using available data and indicating the quantity, quality and the direction and rate of flow of groundwater sources, including an assessment of the impact of effluents upon groundwater.

LOT: A parcel of land occupied by one building and the accessory buildings or uses customarily incidental to it, and having frontage upon a public or private road.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every one hundred years, that has a one percent chance of occurring in any year.

MONUMENTS: Durable monuments capable of being detected with electromagnetic metal detectors shall be placed at all angle points, points of curvature, and points of tangencies of property boundaries. Every monument shall bear the license number of the surveyor responsible for its placement, permanently affixed to last the life of the monument.

M.R.S.A.: The abbreviation for Maine Revised Statutes, Annotated, the definitive source for all state statutes as published and updated by the State of Maine.

NET RESIDENTIAL ACREAGE: The acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for roads, easements, rights-of-way, areas unsuitable for development, open space, utilities, or other areas designated by the Planning Board.

NET RESIDENTIAL DENSITY: The average number of dwelling units per net residential acre.

NORMAL HIGH WATER MARK: The line on the shores or banks of nontidal waters which is apparent because of the contiguous different character of soil or vegetation due to prolonged action of the water. Relative to vegetation, it is that line where vegetation changes from predominantly aquatic to predominantly terrestrial.

OFFICIAL SUBMITTAL DATE: The date upon which the Board issues a receipt indicating a complete application has been submitted.

OPEN SPACE: A portion of land in a subdivision dedicated by the subdivider to be preserved in its natural state, never to be divided or developed, and owned in common by the lot owners or the Town. Legal documents and deed restrictions or covenants will be required as evidence of the permanence of such open space. The acreage requirement is ten percent (10%) of the entire parcel proposed for subdivision.

PREAPPLICATION: An informal discussion between the subdivider and Planning Board, accompanied by a sketch plan, to give the Board a clear understanding of what is proposed, and to give the applicant a clear understanding of what is possible and what is acceptable.

PRELIMINARY PLAN: The preliminary drawing for a subdivision indicating the proposed layout of the subdivision and such other information as required by this Ordinance.

ROAD CLASSIFICATION:

TOWN WAY: Area or right-of-way designated and held by the Town for the passage and use of the public by motor vehicle.

PUBLIC RIGHT-OF-WAY: An easement held by the Town for purposes of public access to land or water not otherwise connected to a public way, for which the Town has no maintenance responsibility.

SUBDIVIDER: Assessed owner or owners of land proposed for subdivision or person with documented title, right or interest in the land to be subdivided. The term "applicant", as used herein, means subdivider.

SUBDIVIDER'S AGENT OR REPRESENTATIVE: That person who has written authorization to act for the subdivider.

SUBDIVISION: As defined by 30 M.R.S.A. 4956, and as the same may be amended from time to time, namely:

"A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, or a gift to a municipality, unless the intent of that gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this section."

"The term subdivision shall also include the division of a new structure or structures on a tract or a parcel of land into three (3) or more dwelling units within a five (5) year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period."

"The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.

Nothing in this section may be construed to prevent a municipality from enacting an ordinance under its Home Rule Authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use as a single family residence or for open space land as defined in Title 36, Section 1102 for a period of at least five (5) years prior to that second dividing.

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

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that the lands located on opposite sides of public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

A "dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, time-share units, and apartments. Notwithstanding the provisions of this paragraph, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this section."

Pursuant to the Home Rule Provisions of Title 30 M.R.S.A., Section 1917 and 2151A, a subdivision in the Town of Montville is further defined to include recreational campgrounds, mobile home parks, and such projects in which land or structures are leased, owned in common, owned by shares, or owned by the subdivider.

WATERBODY or BODY OF WATER: Watercourses, such as streams, brooks or rivers that are perennial, and lakes or ponds.

WATERSHED: The area of land around or adjacent to a body of water which provides direct drainage of surface water into that body of water.