

STONINGTON
SUBDIVISION ORDINANCE

Enacted: 3/6/2006 ~~Last Amended: 3/6/2023~~ 03/11/2024

I. Purpose

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

II. Authority: Definitions ~~“italized”~~ ~~“italicized”~~ *the print of defined words*

A. Authority

This Ordinance is adopted pursuant to Municipal Home Rule Powers granted in the Maine Constitution; Title 30-A M.R.S.A. §3001-3006; and 30-A M.R.S.A. 4403 (2). It shall be known as the “Subdivision Ordinance of the Town of Stonington, Maine,” adopted and effective on March 6, 2006, by vote of the town meeting.

B. Definitions

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

III. Applicability

This Ordinance applies to all land use activities defined as a “*Subdivision*” in Title 30-A M.R.S.A. Section 4401, and as it maybe later amended. All other such activities require *subdivision* approval pursuant to the provisions of this Ordinance.

IV. Form of Application

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

V. Administrative Review Procedures

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

A. Preliminary Application

1. An applicant shall submit 9 copies of the *application* and three copies of the *preliminary plan* to the *Planning Board*. When an application is received, the CEO shall give a dated receipt to the *applicant* and shall notify by certified mail all *abutting* property owners of the proposed *subdivision*, specifying the location of the proposed *subdivision* and include a general description of the project.
2. The *preliminary plan* shall be drawn in the appropriate scale on sheets not larger than 24" x 36" each. The preliminary plan shall show the location of all existing structures, wells, subsurface sewer systems, utilities, streams, water bodies, and roads located on the *applicant's* property. There shall be included a location map at a scale of not less than 1" to 400', showing the relationship and proximity of the proposed project to all properties within 3,000 feet of the property lines.
3. All *preliminary plans* shall clearly be marked "PRELIMINARY" in the top right-hand corner. The *preliminary plan* and accompanying information sheets shall show the following, except for those items that the *Planning Board* deems not appropriate and agrees to waive:
 - a. Proposed *subdivision* name must include name of *subdivision*, name of owner(s) and engineer(s) or surveyor(s), and in the case of a corporate ownership, the names and address of directors and executive officers and holders of 10% or more of the outstanding stock.
 - b. Tax map, lot numbers and land boundaries
 - c. Date, magnetic north point, and a scale appropriate to the following table:

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

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

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

In no instance shall a disposal area in developments, to which this Ordinance applies, be permitted on a lot, which requires a new system variance from the Subsurface Wastewater Disposal Rules if any part of such lot is located in a *shoreland-zoned* area or in the watershed of the Stonington Water District.

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

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

 - m. *Subdivisions*, in which more than a daily average of 2,700 gallons of wastewater of any type may be generated and when the site is not served by a public sewer, then the applicant shall submit a high-intensity soil survey prepared by a certified soil scientist. If one or more of the following conditions are met, then a hydro geologic assessment shall be prepared by a certified geologist, which demonstrates the groundwater hydrology.
 - 1. The *subdivision* contains any lot less than 2 acres (87,120 sq ft); or
 - 2. The *subdivision* has an average density of less than 87,120 square feet (2 acres) per unit.
 - 3. In a *cluster development* of 10 or more units, the density of which are less than 1 ½ acres per unit attached or detached.
 - 4. Any part of the *subdivision* is located in a shoreland-zoned area.
 - 5. Any part of the subdivision is located in the watershed of the Stonington Water District.

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

 - o. Copies of proposed deed restrictions in the subdivision.

 - p. In any area served by municipal water and sewer, ~~then~~ the density can be 1/8th of an acre (5,445 sq ft) per unit.
4. Within 30 days after reviewing an *application*, the *Planning Board* shall notify the *applicant* in writing either that the *application* is complete or, if the *application* is incomplete, the specific additional material needed to complete the *application*.

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

B. Preliminary Review

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

C. Final Application

1. The *final plat* shall be submitted within one year after the date of approval of the *preliminary plan*. It shall be submitted with the original transparency suitable for permanent recording in the Hancock County Registry of Deeds. The final plat and three copies shall be submitted to the *Planning Board*.
2. The *final plat* shall show the following, except for those items that the *Planning Board* deems not appropriate and agrees to waive.
 - a. All information required for the *preliminary plan* and amendments thereto.
 - b. Title and location of subdivision or plan, name, registration number, and seal of the registered land surveyor who prepared the *final plats*; and date.

- c. Names and lines of all existing and proposed streets, lengths of all straight lines, the angle deflection, radius, length, and central angle of all curves, tangent distances, and bearings.
- d. Location and description of permanent markers.
- e. All conditions of approval imposed by the *Planning Board*.
- f. Sufficient lines for signatures of the Stonington *Planning Board* members and a line for date of approval.

D. Final Review

- 1. If the *Planning Board* determines that another public hearing is appropriate, the procedures for a public hearing on a *final plat* shall be the same as those for a *preliminary plan* (see Section (9B) (1) above). In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the *Planning Board* shall make findings of fact as required by Title 30-A M.R.S.A. § 407 and as it may later be amended.
- 2. The board may require a performance guarantee to secure completion of all public improvements required by the *Planning Board* and written evidence that the municipal officers are satisfied with the legal sufficiency of any documents.
- 3. The approval of a *final plat* shall be attested on the original transparency and marked original by the chairman and the three copies marked as copy 1, copy 2 and copy 3 by the signature of the legal majority of the board. One copy shall be filed with assessors, and one copy shall be filed with the *Planning Board*. The applicant shall record the signed original transparency and the third signed copy of the *final plat* with the Hancock County Registry of Deeds within 30 days of its approval by the Board.

VI. Review Criteria

The review criteria in this Ordinance shall be as provided in Title 30-A M.R.S.A. §4404. As of March of 2006, when reviewing any *subdivision* application for approval, the *Planning Board* shall consider the following criteria (which may change from time to time as the statute is amended) and, before granting approval, must determine that:

- A. Pollution - The proposed subdivision will not result in undue water, noise and/or air pollution. In making this determination, the board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains
2. The nature of soils and sub soils and their ability to adequately support waste disposal.
3. The slope of the land and its effect on effluents.
4. The availability of slopes or streams for disposal of effluents.
5. The applicable state, local health and water resource rules and regulations

B. Sufficient Water - The proposed *subdivision* has sufficient water available for the projected needs of the subdivision.

C. Town Water Supply - The proposed *subdivision* will not cause an unreasonable burden on an existing water supply, if one is to be used.

D. Erosion - The proposed *subdivision* will not cause unreasonable soil erosion or a reduction in the lands capacity to hold water so that a dangerous or unhealthy condition results.

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

Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters to the maximum extent possible as defined by MDOT's Standards of Practices.

Additionally, all roads constructed shall conform to the following standards:

1. Road crossings of watercourses shall be kept to the minimum number necessary.
2. Bottoms of culverts shall be a minimum of 12 inches and installed at streambed elevation.
3. All cut or filled banks and at areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible.
4. When road crossings of watercourses are to be used on unfrozen surface waters, bridges or culverts of adequate size and design shall be provided so as to support a Gross Vehicle Weight of 63,000 pounds.

5. The arrangement, character, extent, width, grade, and location of all roads shall provide for safe access and egress based on their relation to existing or planned roads, to topographical conditions, to public convenience and to safety, and their relation to the proposed use of the land to be served by such roads. Grades of roads shall conform as closely as possible to the original topography.

6. All roads within the subdivision shall be constructed according to design specifications herein as overseen by the municipal road commissioner, appointed engineer, or agent.

<u>Height clearance</u>	<u>13' 6"</u>
<u>Minimum width of right-of-way</u>	<u>66'</u>
<u>Minimum width of pavement</u>	<u>20'</u>
<u>Minimum grade</u>	<u>.5%</u>
<u>Maximum grade</u>	<u>6%</u>
<u>Maximum grade at intersection</u>	<u>3% within 50' at intersection</u>
<u>Minimum angle of intersection</u>	<u>60°</u>
<u>Minimum width of shoulder</u>	<u>3'</u>
<u>Minimum centerline radii on curves</u>	<u>200'</u>
<u>Minimum tangent length between reverse curves</u>	<u>200'</u>
<u>Minimum setback from shoreline boundary</u>	<u>75'</u>
<u>Road Base (minimum)</u>	<u>24"</u>
<u>Base (bank gravel)</u>	<u>18"</u>
<u>Gravel Surface Course (screened gravel)</u>	<u>6"</u>
<u>Bituminous paving</u>	<u>1 1/2"</u>
<u>Road crown (minimum)</u>	<u>1/4" / 1'</u>
<u>Sidewalks/walkways (minimum where required)</u>	<u>3' 6"</u>
<u>Base course (gravel)</u>	<u>12"</u>
<u>Dead-end or cul-de-sac right-of-way</u>	
<u>Minimum Width</u>	<u>66'</u>
<u>Length not more than:</u>	<u>1,000'</u>

<u>Radii of turn-around at enclosed end of property line (minimum)</u>	<u>80'</u>
<u>Pavement (minimum)</u>	<u>65'</u>
<u>Property line radii at intersections (minimum)</u>	<u>10'</u>
<u>Curb radii at intersections 90° intersections</u>	<u>25'</u>
<u>Less than 90° intersections</u>	<u>30'</u>

7. Road intersections and curves shall be so designed as to permit safe access and egress for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level of three feet higher than the centerline of the road. When necessary to achieve visibility, ground shall be excavated.

8. A vehicle turnout shall be provided every 500 feet for emergency off-road parking. Each shall be a minimum of fifteen (15) feet wide, twenty-five (25) feet deep and shall be approved by the *Planning Board*.

9. All dead-end streets shall be constructed to provide a cul-de-sac turnaround. If the subdivision covers only a portion of the subdivider's entire lot and the remaining portion is of sufficient size to be subdivided in the future and there has been no written statement by the developer not to further subdivide the remaining portion, the Board may require the reservation of a fifty (50) foot easement in line with the street to provide continuation of the road for future access.

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

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

H. Aesthetic, Cultural and Inherent Assets - The proposed *subdivision* will not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or by the Town of Stonington; unique areas; and any public rights for physical or visual access to the shoreline.

I. Conformity with Town Ordinances and Plans - The proposed subdivision conforms with this Ordinance and with the Comprehensive Plan. In making this determination, the *Planning Board* may interpret this Ordinance and the Comprehensive Plan:

J. Financial and Technical Capacity - The subdivider has adequate financial and technical capacity to meet the standards of this section.

K. Surface Waters - Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetlands, or great pond as defined in Title 38 M.R.S.A §435 et seq., the proposed *subdivision* will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

L. Ground Water - The proposed *subdivision* will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

M. Flood Areas - Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and the information presented by the applicant, determines whether the *subdivision* is in a flood-prone area. If the *subdivision*, or any part of it, is in such an area, the subdividers shall determine the *100-year flood* elevation and flood hazard boundaries within the *subdivision*. The proposed *subdivision* plan must include a condition of plan approval requiring that principal structures in the *subdivision* will be constructed with their lowest floor, including the basement, at least one foot above the *100-year flood* elevation.

N. Freshwater Wetlands - All freshwater wetlands within the proposed *subdivision* have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of *freshwater wetlands* may be done with the help of the local soil and water conservation district.

O. River Stream or Brook - Any river, stream or brook within or *abutting* the *subdivision* has been identified on any maps submitted as part of the application. For purposes of this section, "river, streams or brook" has the same meaning as in Title 38 M.R.S.A. 480 (B) subsection (9) and as it may later be amended; and

P. Storm Water - The *subdivision* will provide for adequate storm water management.

Q. Spaghetti Lots Prohibited - if any lots in the *subdivision* have shore frontage on a river, stream, brook, *great pond* or coastal wetland as these features are defined in Title 38 M.R.S.A. 480 (B), none of the lots created within the *subdivision* have a lot –depth-to shore frontage ration greater than 5 to 1.

R. Lake or Pond Phosphorus – The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision: and

S. Impact on adjoining Municipalities – 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.

T. Access to Direct Sunlight Title 30-A § 4405 – The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use controls.

U. Easements - The *Planning Board* may require that easements be granted to the Town for sewers, drains and other utilities.

V. Low to Moderate Income Housing - The proposed Subdivision of ten units or more shall provide 10% of the subdivision lots, apartment units, or condominium for Low-to Moderate income housing.

VII Application Fees

- A. All *applications* for *preliminary plan* approval shall be accompanied by a non-refundable application fee of \$100.00 for each lot or unit. Application fees shall be made by check to the Town of Stonington
- B. All applications for *final plan* approval shall be accompanied by an application fee of \$100.00 payable by check to the Town of Stonington
- C. Planning Board Review Escrow Account - In addition to the above application fees, there shall be a payment made at the time of application of \$150.00 for each lot or unit in a *subdivision*. The escrow account fee shall be payable by separate check to the Town of

Stonington, Maine, and need not be deposited into a separate account. The escrow account fee or portions thereof shall be used by the Town, at the request of the Planning Board, to make payments for the reasonable costs incurred by the board that relate directly to the board's review of the related *subdivision application*. Such costs may include, but need not be limited to, clerical costs, consulting, recording fees, and appraisal fees. All such fees must relate to the review of the application pursuant to the review criteria of the State of Maine and the Town of Stonington, and in addition may be used for conducting public hearings related to the *Planning Board's* review of the *application*.

Upon written request of the applicant, the *Planning Board* shall provide the applicant with a final accounting and shall refund to the applicant all of the unexpended portion. Such accounting and refund of unexpended monies shall be made no later than 30 days after receipt of the applicant's written demand, which demand shall be made no earlier than the date of decision on the application. The *Planning Board* shall not use escrow account fees for any enforcement purposes, nor shall the applicant be liable for costs incurred by the *Planning Board*, which exceed the amount deposited to the escrow account, except by mutual agreement.

- D. Performance Guaranty – If public utility services are to be utilized, a Performance Bond Guaranty shall be required upon submission of the Final Plan for approval. The *Planning Board* with the advice of the various municipal departments and utility companies concerned shall determine the conditions and amount of this bond.

VIII Enforcement

A. Prohibited Activities 30-A M.R.S.A. § 4406

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

B. Permanent Marker Required

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

C. Utility Installation

A public utility, water district, sanitary district or any other utility company may not install services to any lot or unit in a *subdivision* unless written authorization attesting to the validity and currency of all permits required under this Ordinance has been issued by the *Planning Board*. Following installation of service, the company or district shall forward the written authorization to the *Planning Board*, indicating that installation has been completed.

D. Enforcement 30-A M.R.S. A. §4452

The Code Enforcement Officer, upon finding that any provision of this Ordinance, or any condition of a permit issued under this Ordinance, has been violated, is authorized to issue notices of violations, orders to correct; and schedules to correct to enter into administrative decrees and agreements; and, with the approval of the Selectmen, to institute legal proceedings on behalf of the Town of Stonington to enjoin violations of this Ordinance and to recover civil penalties and costs.

E. Civil Penalties

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

IX Revisions to Existing Plat or Plan

Any application for *subdivision* approval, which constitutes a revision or amendment to a subdivision plan, which has been previously approved, shall comply with Title 30-A M.R.S.A. §4407 as amended. A public hearing on the proposed amendment shall precede major amendments that would significantly alter the intent of this regulation. In reviewing such an application, the *Planning Board* shall make findings of fact establishing that the proposed revisions do or do not meet the review criteria of this Ordinance.

X. Validity and Separability Conflict with other Ordinances

A. Validity and Separability

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

B. Conflict with Other Ordinances

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

XI Appeals

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

XII Definitions

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Stonington Subdivision Ordinance shall have the definition contained in the ordinance, unless defined differently below. Other words and terms used herein are defined as follows:

Abutter, Abutting, Abut: The owner of any property with one or more common boundaries, or across the street from the property involved in an application or appeal.

Acre: A measure of land containing 43,560 square feet.

Affordable Housing: Housing units that will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

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

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

Buffer Area: A part of a property or 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 cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A *subdivision* in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

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 the 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 by 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.

Comprehensive Plan: A document or interrelated documents adopted by town meeting, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of 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 in the *comprehensive plan*. 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 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 wastewater disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Final Plan or Final Plat: 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.

Freshwater 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*, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural site has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the 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 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 the 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.

High Water Mark:

Coastal Waters: The elevation at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrow grass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high watermark shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high watermark shall be the means seaward limit of salt tolerant vegetation.

Inland Waters: That line which 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 water mark is the upland edge of the wetland, and not the edge of the open water.

Hydrology: The science dealing with the waters of the earth, their distribution on the surface and underground, and the cycle involving evaporation, precipitation, flow to the seas, transpiration, infiltration, etc.

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

Low-to-Moderate Income (LMI) means any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50% of households have an income less than 60 percent of the Area Median Gross Income (AMGI), or which has a poverty rate of at least 25%.

Multifamily Development: A *subdivision*, which 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.

New Structure or Structures: Including any structure for which construction begins on or after March 6, 2006. 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.

Planning Board: The *Planning Board* of the Town of Stonington.

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.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

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

Reserved Affordable Housing: *Affordable housing* which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.

Site 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 regulations 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 rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

Arterial Street: A major thoroughfare that serves as a major traffic way for travel between and through the municipality. The following roadways in Stonington shall be considered arterial streets: State Route 15 and State Route 15A.

Collector Street: A *street* with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Cul-de-sac: A *street* with only one outlet and having the other end configured for the reversal of traffic movement.

Industrial or Commercial Street: *Streets* serving only industrial or commercial uses.

Minor Residential Street: A *street* servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Private Right-of-way: A minor residential street serving no more than eight units, which is not intended to be dedicated as a public way.

Subdivision: Means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This 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 or parcel of land into 3 or more units within a 5-year period, the construction or placement of 3 or more 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 5-year period. The intent of this paragraph is to include commercial, industrial and dwelling units.

A. In determining whether a tract or parcel of land divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of

either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the sub- divider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 2. The division of the tract or parcel is otherwise exempt under this subchapter.
- B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed *subdivision* created by a subsequent dividing.
- C. A lot of 40 or more acres must be counted as a lot.
- D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objective of this subchapter.
- D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objective of this subchapter.
- D-4. A division accomplished by give to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. 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 cannot be given for consideration that is more than $\frac{1}{2}$ the assessed value of the real estate.
- D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
 - D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of this transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 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 subsection.
 - E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent structures legally existed before September 23, 1971 is not a subdivision.
 - F. In determining the number of units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a *subdivision* of land.
 - G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to *subdivision* review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
 - H. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of *subdivision* under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

Substantial Construction: The completion of a portion of the improvements, which represents no less than thirty percent of the costs of the proposed improvements within a subdivision. 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 building construction shall be included in the total costs of proposed improvements.

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

Unit: Any structure or portion of a structure, which will be treated as a discrete interest.

Usable Open Space: That portion of the common open space which, 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, have ledge outcroppings, or areas with slopes exceeding 10%.

A True Copy Attest:

_____ Town Clerk