

SUBDIVISION REGULATIONS OF THE TOWN OF VIENNA

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Amended March 10, 2018

CRESTON GAITHER, Secretary, Vienna Planning Board

ACKNOWLEDGEMENT

STATE OF MAINE

FRANKLIN , SS

Personally appeared the above named Creston Gaither, and made oath pursuant to the authority conferred upon him that he signed the forgoing instrument and made oath to the truth of the forgoing instrument, this sixth day of December, 2018 Before me,

NOTARY PUBLIC

SECTION 1. PURPOSE

The purpose of these subdivision regulations is to assure the comfort, health, safety, and general welfare of the people, to protect the environment, and to provide for the orderly development of a sound and stable community.

SECTION 2. AUTHORITY AND ADMINISTRATION

A. Authority

1. These regulations are adopted pursuant to and consistent with Title 30-A, M.R.S.A., Sections 4401- 4407.
2. These regulations shall be known and cited as the Subdivision Regulations of the Town of Vienna.

B. Administration

1. The Planning Board for the Town of Vienna shall administer these regulations.
2. The provisions of these regulations shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Vienna.
3. The Planning Board shall notify the Maine Department of Environmental Protection of, and invite it to review, any subdivision proposed within the watershed of any body of water controlled by the Shoreline Zoning Ordinance for the Town of Vienna.

SECTION 3. DEFINITIONS

A. Subdivision

A subdivision shall mean the division of a tract or parcel of land as defined in Title 30-A, M.R.S.A., Section 4401, except that the term “lot” shall mean any lot including, but not limited to, those 40 acres and larger. The term “subdivision” shall also include campgrounds, cluster housing, shopping centers, and apartment, condominium, or cooperative housing units, when any of these items contain three or more units.

SECTION 4. PROCEDURES FOR SUBDIVISION REVIEW

A. Introduction

The subdivider’s application for subdivision approval will not be considered complete until a Final Plat, based on a standard boundary survey, has been submitted to the Planning Board. While a subdivider may submit a Final Plat and all related materials to the Board without any prior contact with the Board, the subdivider is strongly advised against doing this, as any potential problems may not be resolved within the statutory time limits for reviewing completed applications. This may result in a negative decision of the Board, and

unnecessary expenses to the subdivider for reviewing the application materials and possibly for re-surveying the land.

B. Pre-Application Meeting and Submission of a Sketch Plan

1. Prior to submitting an application for subdivision approval and the Preliminary Plat, the subdivider or his authorized agent should appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.
2. The subdivider shall present to the Board, for informal review and comment, a sketch plan of the proposed subdivision which may be a free-hand, penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features which may be of assistance to the Board in making its determinations.
3. No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

C. Inspection of the Site

In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the Planning Board, or an individual appointed by the Chairman to act as the Board's representative for the inspection. The on-site inspection may be conducted at or shortly after the time of submission of the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made.

D. Submission of a Preliminary Plat Plan

Upon submission of a sketch plan, and following an on-site inspection of the site, the Planning Board will outline, by checking specific items on an application form, the specific requirements for Preliminary Plat submission. Specific requirements will vary according to the size and complexity of the subdivision proposal. In some instances, the Planning Board may waive the requirement for Preliminary Plat. The Preliminary Plat shall be not less than 8 1/2" by 11", and shall be drawn to a scale of not greater than 1" equals 100' nor less than 1" equals 400' with contour lines as specified by the Board. At least three (3) copies shall be provided; one (1) for the subdivider, one (1) for the Planning Board, and one (1) for the Board of Selectmen. Requirements for the Preliminary Plat shall include the following (items with an "X" may be waived at the discretion of the Planning Board):

Information on the Applicant

1. Name of Owner.
2. Name of applicant (if other than owner).
3. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
4. Name of applicant's authorized representative.
5. Name, address, and license number of Registered Professional Engineer, Land Surveyor, or Planner.
6. Address to which all correspondence from the Planning Board should be sent.
7. What interest does the Applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.)?
8. What interest does applicant have in any property abutting parcel to be subdivided?
9. State whether preliminary plat covers entire, contiguous holdings of applicant or not.

Information on Parcel to be Subdivided

1. Location of property: Book and page (Registry of Deeds).
2. Location of property: Map and lot (from the Assessors' Office).
3. Survey map of tract to be subdivided, certified by a Professional Land Surveyor, tied to established reference points (attach to application).
4. Current zoning of property.
5. Acreage of parcel to be subdivided.
6. A soils report, identifying soil types and location of soil test areas. Based on soil test results, certain modifications of the Preliminary Plat may be required (attach copy of soils report to application). There shall be at least one (1) soil test per lot.
7. Names of property owners abutting parcel to be subdivided, and on opposite side of any road from parcel to be subdivided (show on plat).
8. Indicate the nature of any restrictive covenants to be placed on the deeds.

Information on Subdivision

(X = may be waived at Planning Board's discretion)

1. Proposed name of subdivision.
2. Number of Lots.
3. Date, north arrow, graphic map scale (show on plat).
4. Proposed lot lines with approximate dimensions and suggested location of buildings, subsurface sewage disposal systems, and wells (show on plat).
5. Location of temporary markers adequately located to enable the Planning Board to Locate lots readily and appraise basic lot layout in the field (show on plat).
6. Location of all parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or sites to be reserved (show on plat).
- X. 7. A location map, consisting of a USGS Topographical Map showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2000 feet of any property line of the proposed subdivision (attach to application).
8. Location and size of existing building, watercourses, and other essential existing physical features (show on plat).
- X 9. Location and size of any existing sewers and water mains, and culverts and drains.
- X 10. Location, names and widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces (show on plat).
- X 11. Contour lines at an interval of not more than twenty (20) feet in elevation, unless otherwise specified by the Board, referred to U. S. Coastal and Geodetic Survey benchmarks if such exist within 500 feet of the subdivision.
- X 12. Typical cross-sections of proposed grading for roadways, sidewalks, and storm drainage facilities (attach to application).
- X 13. A soil erosion and sedimentation control plan (attach to application).
14. Other information not indicated above, as specified by the Board on the application form.

E. Issuance of Dated Receipt

Upon receipt of the Preliminary Plat and the application, the Planning Board shall issue the subdivider a dated receipt.

F. Planning Board Action on the Preliminary Plat Plan

Within thirty (30) days of the date of issuance of the receipt, the Planning Board shall review the Preliminary Plat and shall notify the subdivider in writing either that:

1. With the exception of the submission of a Final Plat the application is a complete application; or
2. In addition to the submission of a Final Plat, there are a number of specific additional materials which will have to be submitted to make a complete application. The Planning Board shall list the specific additional items that must be submitted in order to make the application complete except for the Final Plat; and/or
3. The Planning Board has determined that there are a number of apparent deficiencies with the proposal which should be corrected before submission of the Final Plat. The Planning Board shall indicate in writing the nature of these deficiencies. Submission of the Final Plat without correcting these deficiencies shall be grounds for disapproval of the application for subdivision approval. The Planning Board shall maintain a permanent record of its action on the Preliminary Plat.

G. Submission of a Final Plat

Within six (6) months of the date of Planning Board action on the Preliminary Plat, the subdivider shall submit the Final Plat to the Planning Board with a check in the amount of \$25.00 per residential lot. In the case of a cluster development, a check in the amount of \$25.00 per residential dwelling unit shall be submitted. The check shall be payable to the Town of Vienna. Failure to submit the Final Plat within the designated time period shall require the submission of a new subdivision application.

The Final Plat shall consist of one (1) original transparency and three (3) copies of each map or drawing similar to the maps or drawings prepared for preliminary plat submission. In addition to all of the items required on the preliminary plat, unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Plat submission:

1. Professional Land Surveyor. The name, license number, and seal of the Professional Land Surveyor who prepared the Final Plat (show on plat).
2. Streets. The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings (show on plat).
3. Open Spaces. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider.
4. Lots. The location, bearing and length of every line, with all lots numbered in accordance with local practice.
5. Permanent Reference Monuments. The location of permanent markers set at all lot corners, as shown on the plat.
6. Performance Bond. A performance bond 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 such bond.

- 7. Land Dedication. Written copies of any documents of land dedication, and written evidence that the municipal officers are satisfied with the legal sufficiency of any documents conveying such land dedication.
- 8. Approval Space. Suitable space to record on the approved plat the date and conditions of approval, if any.

This space shall be similar to the following example:

Approved as a Subdivision by The Town of Vienna, Maine Planning Board

Signed:

_____ Chairman
 _____ (space for all members to sign)

Date: _____

Conditions: _____

H. Notification of Completed Subdivision Application

After the Planning Board has received the Final Plat and all of the information required to be submitted with it, the Planning Board shall notify the subdivider in writing that a completed subdivision application has been filed, and shall begin its evaluation.

I. Public Hearing

In the event that the Planning Board determines to hold a public hearing on the proposed subdivision, it shall hold such public hearing within thirty (30) days of having received a complete subdivision application, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in Vienna at least two times; the date of the first publication shall be at least seven (7) days prior to the hearing. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of subdivision, the community impact, and whether any written requests for such a hearing have been received.

J. Planning Board Decision on Final Plat Plan

1. The Planning Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received a completed application, if no hearing is held, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may seem advisable to satisfy the criteria contained in these regulations and in Title 30-A, M.R.S.A, Sections 4401-4407, and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall

make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and Title 30-A, M.R.S.A., Sections 4401 - 4407.

2. Upon approval of the Plan, a majority of the Board shall sign all four copies. The original transparency shall be recorded at the Registry of Deeds within sixty (60) days after final approval. Failure to so record this transparency shall void the subdivision approval. One (1) copy shall be retained by the Planning Board, and one (1) copy shall be filed with the Selectmen. The Planning Board shall maintain a permanent record of its action on the Final Plat.

SECTION 5. GENERAL REQUIREMENTS

A. Buffer Strip

The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

B. Basement Drainage

If lots are being created to accommodate structures with basements, the subdivider shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed, or that the water table is below the level of the basement.

C. Conformance with Other Laws, Regulations

The proposed subdivision shall be in conformance with all pertinent local, State, and Federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of a subdivision as defined in the Site Location Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Department of Environmental Protection. Each review may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Department of Environmental Protection has granted approval under provisions of the Site Location Act.

D. Construction Prohibited

No utility installations, no ditching or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Plat of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by these regulations, nor until an attested copy of the Final Plat so approved and endorsed has been recorded by the subdivider at the Registry of Deeds. Plans for road construction, grading and ditching shall be reviewed by the Road Commissioner for his recommendations prior to Planning Board approval.

E. Ditches, Catch Basins

The Planning Board may require the installation of ditches, catch basins, piping systems, and other appurtenances for the conveyance, control, or disposal of surface waters. Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.

F. Easements

The Planning Board may require easements for sewage, drainage, or other utilities.

G. Guidelines for Reviewing Subdivisions

In reviewing any proposed subdivision, the Planning Board shall consider the criteria set forth in the Guidelines contained in the Subdivision Law, Title 30-A, M.R.S.A., Section 4401- 4407, and before granting approval shall determine that they have been, or will be, met. In all instances, the burden of proof shall rest with the applicant.

H. Lots and Density

1. The minimum lot size shall be two (2) acres with building setback from the road to be either fifteen (15) feet from road right-of-way limits or forty (40) feet from the centerline of existing traveled ways, and from property lines fifteen (15) feet.

2. Any lot shall be able to contain a 1 3/4 acre rectangular parcel with a depth to width ratio not to exceed 3 to 1, and with at least one of the sides of the rectangle contiguous with a town or state maintained road or other road built to road specifications, as described in the Road Ordinance for the Town of Vienna. These requirements may be waived if the Board determines that some other lot configuration better meets the requirements of M.R.S.A. Title 30-A, Section 4404.

3. Where individual, on-site sewage disposal systems are to be utilized, the size of each lot shall conform to the Minimum Lot Size Guide contained in the State of Maine Plumbing Code, but not be less than that required by paragraphs 1 and 2 of this Section.

4. For cluster developments, overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots. Such density shall be calculated by dividing the total acreage within the subdivision (including open spaces or common recreational acres) by the number of proposed residential dwelling units.

I. Land Not Suitable for Development

The Planning Board shall not consider such portions of any proposed subdivision that are within the 100-year frequency flood plain, or on land which must be filled or drained, or on land created by diverting a watercourse as fulfilling any of the minimum lot size requirements specified in Section 5.H. In no instance shall the Board approve any part of a subdivision located on filled or drained Great Ponds.

J. Open Space Provisions

1. The Planning Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees 10" or more in diameter, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adopted to the topography. Extensive grading and filling shall be avoided as much as possible.

2. Where the proposed subdivision abuts a lake, pond, river, or perennial stream, the Planning Board may require, where feasible and appropriate, that the subdivider reserve an area of land abutting the waterbody or watercourse as an open space and/or recreational area for use by property owners in the subdivision. The instruments of conveyance (deeds) from the subdivider to the property owner in the subdivision shall provide for an access right-of-way to this reserved land. The cost of maintenance and development of the reserved land shall be borne by the property owners of the subdivision. The manner of providing for the cost of development and/or maintenance of the reserved open space shall be included in the instrument of conveyance to each property owner of the subdivision.

K. Performance Bond

1. The Planning Board may require that the subdivider file with the Board at the time of submission of the Final Plat a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Treasurer, Town of Vienna, or a performance bond running to the municipality and issued by a surety company acceptable to the municipality. The condition and amount of such certified check or performance bond shall be determined by the Planning Board of Vienna with the advice of the municipal officers. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage and utilities or other improvements specified on the Final Plat within two (2) years of the date of the certified check or performance bond.

2. The Planning Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the, Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the municipal officers for official action.

3. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal, and local codes, ordinances, laws, and regulations).

L. Plan Revisions after Approval

No changes, erasures, modifications, or revisions shall be made in any final plat after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted and the Planning Board approves any modifications. In the event that the final plat is recorded without complying with this requirement, the Planning Board shall prepare a document stating that the plat is not an approved subdivision and shall have that document recorded at the Registry of Deeds.

M. Street Design and Construction

The design and construction of all streets and roads shall be in accordance with the Road Ordinance of the Town of Vienna.

SECTION 6. WAIVER AND MODIFICATION OF THESE REGULATIONS

A. Where the Planning Board finds that extraordinary hardships may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Shoreline Zoning Ordinance, or any other ordinance.

B. In granting any waiver, the Planning Board shall require such conditions as will ensure substantially the objectives of the requirements so waived.

SECTION 7. VALIDITY, EFFECTIVE DATE, CONFLICT OF ORDINANCES, AND FILING

A. Should any section or provision of these regulations be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of these regulations, and to this end, the provisions of these regulations are hereby declared to be severable.

B. The effective date of these revised regulations is March 10, 2018.

C. These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where these regulations impose a higher standard for the promotion and protection of health and safety, the provisions of these regulations shall prevail.

SECTION 8. AMENDMENTS

These regulations may be amended by a majority vote of the governing body. A copy of all amendments shall be recorded at the Registry of Deeds.

SECTION 9. APPEAL

An appeal may be taken, within thirty (30) days from the Planning Board's decision on the Final Plat, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.