

**SUBDIVISION REGULATIONS
FOR
MOULTONBOROUGH, NEW HAMPSHIRE**

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SUBDIVISION REGULATIONS

TOWN OF MOULTONBOROUGH, NEW HAMPSHIRE

SECTION I. AUTHORITY AND PURPOSE

1.1 Authority

Pursuant to the authority vested in the Moultonborough Planning Board by vote of the Town of Moultonborough, March 10, 1970, and in accordance with the provisions of title 64, chapter 672 through 677, NH Revised Statutes Annotated 1955, as amended, the Moultonborough Planning Board adopts the following Regulations governing the subdivision of land in the Town of Moultonborough, New Hampshire.

1.2 Purpose

These Regulations and Policies of the Board are designed to accomplish purposes set forth in **RSA 674:36**. They are to provide against scattered or premature subdivision of land involving danger or injury to health, safety or prosperity because of lack of water supply, drainage, transportation, or other public service or the excessive cost to the public of supplying them; to provide for harmonious development of the Town and for proper arrangement and coordination of streets in relation to existing or planned streets; to provide adequate open space, and for streets of suitable location and sufficient width to accommodate present and future traffic and to allow adequate light, air and access of fire fighting apparatus and equipment to buildings; to require parks of suitable location and size for playground and recreational purposes; to assure that subdivided land shall be of such character that it can be used for building purposes without danger to health; to permit the requirement of lot sizes of sufficient area as needed for adequate on-site sanitary facilities; and generally to enable the Board to provide for conditions favorable to health, safety, convenience or prosperity, and to promote the fullest compliance with all local, state and federal laws, ordinances and Regulations governing land use and the furtherance of all legally adopted public Policies, local state and federal, affecting land use in Moultonborough.

SECTION II. TITLE

These Regulations shall be known and cited as the “Subdivision Regulations for Moultonborough, New Hampshire.”

SECTION III. DEFINITIONS

3.0 Abutter means any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

3.1 Boundary Line Changes

- (a) **Boundary Line Agreement** means an agreement created pursuant to **RSA 472:1** through **472.5**, to establish a boundary line when its exact present location is unknown.

(b) **Boundary Line Adjustment** means an alteration of an established lot line for convenience of owners of contiguous lots.

3.2 Board means the Planning Board of the Town of Moultonborough, New Hampshire.

3.3 Class VI Road means a right-of-way which has been either (1) discontinued and made subject to gates and bars by a Town Meeting vote, or (2) not maintained by the Town for a period of five years or more.

3.4 Clustering means creating a subdivision of a tract of land where units are grouped on lots of reduced dimensions. The remaining land in the tract, which is not built upon, is reserved as permanently protected open space. See Section 7.1E.

3.5 Collector Street means a road that collects traffic from neighborhood and other minor streets, connecting them to principal cross-town routes and to state roads.

3.6 Community Water Systems-Well. A community water system shall be any water system with four or more service connections or which serves four or more separate dwelling units. A well which supplies water for a community water system is a community well.

3.7 Compliance Hearing means a hearing to determine that all conditions and terms of the subdivision and site plan have been met.

3.8 Condominium means (**RSA 356-b:3 v**) real property, and any interests therein lawfully submitted to this chapter by the recordation of the Condominium instruments pursuant to the provisions of this chapter. No project shall be deemed a Condominium within the meaning of this chapter unless the undivided interests in the common area are vested in the unit owners. For planning and subdivision purposes, references to Condominium means those properties where the unit owners have undivided interests in common areas and have agreed (or their predecessors in title) have agreed to submit their property to the provisions of **RSA 356-B**.

3.9 Contiguous Lots mean adjacent or abutting lots which have a common boundary line.

3.10 Driveway means a right of way located on private land and built for vehicular access to not more than two (2) lots, sites, or tracts. A driveway is not a street.

3.11 Dwelling Unit means a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

3.12 Easement means an acquired privilege or right-of-use which one party may have in the land of another.

3.13 Engineer means a licensed registered professional civil or sanitary engineer.

3.14 Shore Frontage as used in section 8.1 of these Regulations, is defined as the average of the total straight line distance between the points of intersection of the waterfront property with the shoreline and the measured distance along the shoreline.

3.15 Lot means a parcel of land or any part thereof capable of being occupied by one principal structure or use and accessory structures or uses incidental thereto, and designated on a plat to be filed with the registry of deeds as a separate lot. For the purposes of these Regulations and Policies of the Board, a lot shall have boundaries identical with those recorded with the registry of deeds.

3.16 Lot Size means the total land area within the boundaries of a lot, exclusive of any land area designated for street purposes, including, but not limited to, traveled way(s), right-of-way(s) and cul-de-sac(s).

3.17 Plat means a map, plan, drawing or chart signed and stamped by a licensed surveyor on which a subdivision of land is shown, and **final plat** means the final map, plan, drawing or chart on which the subdivider's plan or subdivision is presented to the Board for approval.

3.18 Policies of the Board means the administrative procedures of the Planning Board which may be amended at any regularly scheduled meeting of the Board by a majority vote of the Board.

3.19 Protective Well Radius means a protective area which is a uniform circle measured in feet from the center of the well. For purposes of these Regulations, no sanitary sewer infrastructure may be located within this area, as defined by the DES Administrative Rules. Exceptions shall only be allowed as permitted by DES.

3.20 Right-Of-Way shall mean a strip of land used for or intended to be used for a street, road, crosswalk, water main, sanitary or storm sewer main, or for other special use including public use. The usage of the term "right-of-way" for land platting purposes in these Regulations and the Policies of the Board shall mean that every right-of-way hereafter established and shown on a recorded plat is to be separate and distinct from the lots and parcels adjoining such right-of-way and not to be included within the dimensions or areas of such other lots or parcels.

3.21 Setback means the shortest straight-line distance between a legal boundary line (right-of-way, center line of improved roadway, lot line or property line), and the nearest part of a building, dwelling unit or other structure.

3.22 Street means street, avenue, boulevard, road, alley, highway or other way, including all the land between the sidelines of the layout or conveyance or dedication thereof, but shall not include driveways serving not more than two adjacent lots.

3.23 Subdivider means the registered owner (s) or the authorized agent of the registered owner(s) of a lot, tract, or parcel of land, which is the subject of an application for subdivision approval.

3.24 Subdivision means the division of a lot, tract, or parcel of land into two or more lots, plots, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent or lease, Condominium conveyance or building development. It includes re-subdivision, and, when appropriate to the context, relates to the process of subdividing, or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision. Land held in one ownership but divided by a right-of-way, watercourse, Town boundary or other natural or created division may still be subject to these Regulations.

- (a) **Exception:** Subdivision plans of cemeteries whose only purpose is to identify individual burial plots shall not be considered subdivisions and will not require subdivision application or approval. Private cemeteries shall be separate from the parent parcel and shall not be counted as frontage or lot size in parent parcel calculations.

3.25 Surveyor means a New Hampshire licensed land surveyor.

3.26 Tract means any single land area, including contiguous lots, parcels or tracts of land which is in the same ownership whether conveyed to the owner or owners by one or by separate deeds and which is not divided by a public street or highway all of which is capable of division into two or more lots in accordance with these Regulations and Policies of the Board.

3.27 Waterfront Property means a lot or parcel of land wholly or partially bounded by a body of water.

SECTION IV. APPLICATION PROCEDURE

4.1 General Procedure

Whenever a subdivision is proposed and before any transfer of title, the subdivider shall obtain approval in accordance with these Regulations and Policies of the Board.

4.2 Pre-Application Review

Prior to formal application for subdivision approval a subdivider may appear at a regular meeting of the Board and submit a sketch (concept) plan for informal discussion with the Board, consistent with the provisions of **RSA 676:4(II)**, as amended.

Formal public notice of this review shall not be required, however, the review shall be confined to the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during formal consideration, and the review and consultation shall not be binding on either the subdivider or on the Board, no vote shall be taken by the Board during this review, nor shall the Board be committed by reason of this review to vote in the future. At the Subdivider's request, the Board may engage in non-binding discussions involving more specific design and engineering details, but only after identification of and notice to abutters and the general public.

Pre-application review shall be separate and apart from formal consideration, and the time limits described in Section 4.11 A shall not apply.

4.3 Completed Formal Application

An application which satisfies all the following requirements, except those which the applicant has requested waived by the Planning Board, shall be sufficient to invoke jurisdiction to obtain approval.

- A. At least fourteen (14) business days prior to the meeting at which the application will be accepted the subdivider shall file with the Board six (6) hard copies and one (1) PDF copy of the proposed plat, consistent with the following requirements and containing the following information.

- 1) Proposed subdivision name; name and address of owner of record; name of subdivider or surveyor or engineer who created the proposed plat; date; north point and scale of not more than 100 feet to the inch; tax map page and parcel number(s), as they appear on the Town tax records.
- 2) Names and mailing addresses of all owners of record of abutting properties, as indicated in Town records, not more than five (5) days before the day of filing the application with the Board.
- 3) Names and Mailing addresses of surveyor or engineer, abutting subdivision names, streets, easements, setbacks, alleys, parks, and public open spaces and any other pertinent facts regarding abutting property.
- 4) Location of property lines and their approximate dimensions; existing and proposed easements, buildings, water courses; ponds or standing water, wetlands, rock ledges, right or rights-of-way and other essential features. Total area divided into usable and non-usable areas shall be clearly defined.
- 5) Existing water mains, sewers, culverts, drains, electric utilities, and proposed connections or alternative means of providing water supply, electric utilities, disposal of sewage and surface drainage location and results of each percolation test hole and test pit dug and information with respect to soil conditions to show that the proposed lots can support both on site water and waste disposal, if required, without danger of contamination of water supply on such lot or on other property. Where a protective well radius is required, the location of the protective well radius shall be shown on the layout. Where such well or radius on an abutting lot encroaches upon the subject lot, such data shall also be shown on the plan.
- 6) Location, name and widths of existing and proposed streets and highways and pedestrian ways, the elevation of sufficient points on the property to indicate the general topography of existing and proposed streets and highways.
- 7) The boundaries of proposed permanent easements over or under private property shall be shown.
- 8) Proposed lots with square foot size of each lot up to five (5) acres, or size expressed in acres to the nearest tenth of an acre for lots over five (5) acres, and setback lines for each lot.
- 9) Location of all land proposed to be dedicated to public use and the conditions or purpose of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.
- 10) Proposed location and size of any bridges or culverts which may be required.
- 11) For those lots with on site septic systems, soil and slopes information, soil types consistent with the soils and slopes table incorporated in these Regulations and the Moultonborough Zoning Ordinance shall be shown, by soil and boundary area lines for all the land under consideration. Topography shall be shown as measured by a surveyor or engineer at two foot (2') mark contours in construction areas and five foot (5') contours in non-construction areas.
- 12) Sufficient data to determine readily the location, bearing, and length of every street, right-of-way line, lot line, easement line, reservation line, and boundary line and to permit reproduction of such lines upon the ground. All dimensions shall be shown to the nearest hundredth of a foot and

bearings to the next minute. The error of closure for blocks by streets shall not exceed one in five thousand.

- 13) All off site geographic facts within two hundred feet (200') pertaining to the application, including but not limited to the following: intersections, driveways, utility construction, water sources, wetlands, shoreline, location of structures and other existing conditions which may have an impact on the proposed subdivision.
 - 14) Profiles including cross-sections indicating cut and fill, approximate street grades and profiles, and location and sizes of any bridges or culverts, in accordance with Section 7.2 of these Regulations.
 - 15) A written construction permit from the New Hampshire Department of Transportation, if required, and a written permit from the Town of Moultonborough for construction of a driveway or other access, if required.
 - 16) Approvals or permits as required by the New Hampshire Department of Environmental Services, including test pit data for individual septic systems; private water supply, or sewage treatment systems, site specific permits or subdivision approval.
 - 17) If the subdivision is to be served by a public water supply or by public sewers, a statement from the municipal department or company involved, stating the availability of such service.
 - 18) The written comment of the Moultonborough Fire Department relating to the proposed subdivision.
 - 19) Any special investigative studies deemed necessary by the Board.
 - 20) Any other local or state approvals required in order to undertake the development proposed by the subdivision, or a written certification by the subdivider that no such other approvals are required.
 - 21) A fee sufficient to cover the cost of recording the plat with the Carroll County Registry of Deeds shall accompany the final plat.
 - 22) Any other documents, records, or materials deemed necessary by the Planning Board before final approval may be granted.
- B.** A fully completed application check list using the form provided in the application package including the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on the plat submitted to the Board.
- C.** Written certification that one copy of the proposed subdivision plat has been delivered to the Moultonborough Fire department for their review and comment.
- D.** Payment of a fee, as determined by the Planning Board to cover all costs including notices by certified mail, return receipt requested, pertaining to the application approval or disapproval.
- E.** Where the proposed plat submitted covers only a part of the subdivider's entire holding, the application shall be accompanied by a sketch of the prospective future street systems if any, of the unsubmitted part.

- F. If the subdivider proposes that any portion of the land under consideration will become public property, or subject to public access, he shall provide conditional title to all such land in a form satisfactory to legal counsel for the Town. Approval of the plat by the Board shall not constitute an acceptance by the Town of a dedication of any street, highway, park, or other open space.
- G. A statement that temporary stakes have been driven in the ground along the centerlines of any roads to facilitate inspection.
- H. One copy of all proposed deed restrictions, conservation easements, Condominium declarations, restrictive covenants, or other private restrictions governing the use of the land under consideration.
- I. In the event the subdivider is an agent of the owner(s) of record, written confirmation of authority for the agent's representation, signed by the owner(s).

4.4 Subdivision Application Checklist

All proposed subdivision plans must be submitted to the Planning Board accompanied by a subdivision application form and checklist available from the Planning Board Office. All forms and checklist must be completed by the applicant and filed with the Planning Board Office along with all required submittals at the time of application. A completed application will not be accepted by the Board unless it meets all the applicable requirements identified in the checklist. All materials submitted become part of the final application. The Planning Board reserves the right to amend the checklist when necessary to address conditions specific to an individual application.

4.5 Waivers

- A. When, in the judgment of the Planning Board, special circumstances exist where strict conformity with any specific requirements of these Regulations would cause undue hardship or injustice to the subdivider, and where the review procedures have been in general conformity with these Regulations and provided the general spirit, intent, and purpose of these Regulations will not be adversely or substantially affected or harmed, and further provided that the public convenience and welfare of the citizens of Moultonborough will be substantially served and not adversely affected, the Planning Board may waive or modify such specific requirements of these Regulations. In approving waivers, the Planning Board may require such conditions as will, in its judgement, secure substantially the objectives of the standards or requirements of these Regulations.
- B. A petition for any waiver shall be submitted in writing by the applicant when the application is filed for the consideration of the Planning Board, or at such time as the need for waiver may arise. The petition shall state fully the grounds for the waiver and all of the facts relied upon by the applicant or petitioner.
- C. In the event the Planning Board denies a request for a waiver submitted with an application, then such application shall not be deemed complete for jurisdictional purposes until the item or information not waived has been submitted.

4.6 Filing and Submission of Completed Application

- A. The completed application shall be filed with the Planning Board Office at least 14 business days prior to a scheduled public meeting of the Board.
- B. An incomplete application will neither be formally acknowledged by the Board nor will notices of public hearing be mailed, posted or published.
- C. Applications may be disapproved by the Board without public hearing on grounds of the subdivider's failure to supply information required by these Regulations and Policies of the Board, including but not limited to:
 - 1) abutters identification; information required for proposed plat or final plat;
 - 2) failure to pay costs of notices or other costs and fees required by these Regulations and Policies of the Board;
 - 3) failure to meet any reasonable deadline established by these Regulations and Policies of the Board.
- D. If an application is disapproved because it is incomplete, the grounds for disapproval shall be stated in the minutes or records of the Board, and provided in writing to the applicant.
- E. The Board shall rule on the completeness of a submitted application within thirty (30) days of filing or at the next scheduled Board meeting for which notice can legally be given.

4.7 Notification and Public Hearings

- A. Before considering or taking formal action upon a plat or the completed application, the Board shall hold a public hearing, as required by the provisions of **RSA 676:4** as amended.
- B. The applicant, surveyors, engineers and all abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of such hearing, and a general description of the subdivision proposal and its location, before the date fixed for the hearing.
- C. Hearing notice to the general public shall also be given at least ten (10) days before the date fixed for the hearing by posting in 2 public places in the Town and by publication in a newspaper of general circulation therein.
- D. If a notice of public hearing has been included in the notice of submission or any prior notice, additional notice of the public hearing is not required, nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time and place of the adjourned session was made known at the prior hearing.
- E. At the public hearing, the applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify subject to Board approval at the hearing.

- F. If the completed application complies with the requirements for a final plat, the Board requires no further information or studies, and proper notice is given to abutters and the public, the Board may hold a public hearing and render a final decision on the plat during the same meeting at which the completed application is accepted.

4.8 Site Inspection

The Board may conduct a site inspection of the proposed subdivision to ascertain the natural conditions of the site and to inspect the layout of the proposed roads. The applicant shall provide written authority from the person(s) entitled to possession allowing the Board or its representatives, advisors, consultants, or other related personnel to conduct a site inspection.

4.9 Special Investigative Studies

- A. In its discretion, and based upon the conditions and location of the site, or on the nature of the proposed subdivision, the Board may require the applicant to undertake special investigative studies which may include, but not be limited to, an economic impact study, an environmental impact study, an erosion and sediment control study, a site specific soils analysis, a hydrologic impact study, an ecological impact study, a traffic impact study, a provision of emergency services study, or other study deemed necessary by the Board to assist in its review of the application.
- B. It shall be the responsibility of the applicant to pay reasonable fees for review of documents, the cost of special investigative studies, including the cost of the Planning Board consultants, Board administrative fees, and other costs, which may be required by particular applications.
- C. When the Planning Board requires special investigative studies, the contract for such studies shall be awarded to a professional engaged in providing such services. The Planning Board may request that any such outside entity be licensed or certified by the appropriate New Hampshire State authority. The Planning Board reserves the right to retain the services of a professional for the purpose of reviewing any study submitted.
- D. If the Board requires a special investigative study, the applicant shall fill out the discretionary information checklist, and the completed checklist will accompany the documents submitted with the final plat.

4.10 Abandonment of Proposed Plat

A proposed plat shall be considered to have been abandoned by the subdivider if he has not submitted a final plat within twelve (12) months of the date of submission of the proposed plat, excepting contingencies at the subdivider's request, or with his consent, during such twelve-month period. An abandoned plat cannot be revised and is not transferable except as a complete new submission to the Board. Subdivision Approvals shall only be eligible for a single one (1) year extension, if such request is received by the Board prior to the date of the approval lapsing.

4.11 Board Action on Completed Application

- A. The Board shall begin formal consideration of the application within thirty (30) days after receipt of the completed application by the Board. The Board shall act to approve, conditionally

approve or disapprove within sixty five (65) days after acceptance of the completed application by the Board, subject to the applicants waiver of Board action within the time periods and consent to such extensions as may be mutually agreeable. The Board may apply to the Moultonborough Selectmen for an extension not to exceed an additional sixty five (65) days before acting to approve, conditionally approve or disapprove an application.

- B. Upon failure of the Board to approve or disapprove the application within the required time, the applicant may obtain from the Board of Selectmen an order directing the Board to act within thirty (30) days. Failure of the Board to act on the application within the 30-day time period shall entitle the Selectmen to take such action as is provided by law, and the rights of the Board, the Board of Selectmen, the applicant, abutters, and interested parties shall thereafter be determined in accordance with **RSA 676:4** as it may be amended.

4.12 Final Plat Requirements

The subdivider shall submit three (3) copies of the final plat – one (1) mylar for recording at the Registry of Deeds, and two (2) paper copies for Town records - containing all the information required by Section 4.3, unless waived, and which shall, in addition, be accompanied by the following documents or information, or meet the following requirements:

- A. The plat shall be of a size and type to conform with the requirements of **RSA 478:13-a** for recording in the Carroll County Registry of Deeds. Adequate space must be available on the plat for the necessary endorsement by the Chairman. Maximum size of plat must not exceed 24” X 36”; Adjoining sheets may be used if necessary.
- B. The final plat shall contain the name and seal of the licensed land surveyor and the license number and seal of any professional engineer.
- C. All documents relating to security required by the Board for the completion of improvements relating to the subdivision, pursuant to Section 4.
- D. If required, written approval of Town counsel of conditional title to rights of way, public easements, restrictive covenants or recordable land use restrictions, Condominium documents, association articles or by laws, or other documents relating to legal status, rights and responsibilities, public use, or legal relationship among the future owners of the proposed Subdivision.

4.13 Security

- A. Except in the case of a minor/limited subdivision in which each lot is fronting an existing street or a private way, the Board may require the subdivider to post a performance bond, irrevocable letter of credit, escrow agreement, or other form of security as determined by the Board in an amount sufficient to cover the cost of the preparation and installation of streets, the extension of public water and sewer lines, if available, the installation of storm drains, under drains, monuments, erosion control structures, fire protection facilities, or other physical improvements necessary to service the subdivision. This security shall be approved as to form and sureties by the Planning Board and Town counsel and conditioned on the completion of such improvements within two (2) years of the date of the approval of the final plat.

- B.** The amount of the performance security shall be based on an engineer's cost estimate of the necessary improvements. The Board may require a review of the submitted plans, at the subdividers expense, by a registered professional engineer. The estimate shall be approved by the Board prior to the subdivider obtaining the security. All securities shall be in an amount of 110% of the estimated cost.
- C.** The security shall not be fully or incrementally released until the Board has certification of the required improvements in accordance with the subdivision design and construction standards and in accordance with the plan approved by the Board. However, the Board may reduce the bond by proportional amounts as items to be constructed are completed and certified by the Board's agent. A Clerk of the Works may be appointed by the Town, at the applicant's expense, to verify construction of infrastructure and inspect any work required to be completed in fulfillment of the subdivision permit. In no case shall the security amount be reduced by the Board to below ten percent (10%) of the initial total amount, until the completed infrastructure has been in place and operated successfully for at least one (1) year.

4.14 Final Action

- A.** The Board may approve, disapprove, or conditionally approve an application. The reason for any disapproval shall be set forth in writing and delivered to the applicant. The final signed Notice of Decision and Plat together shall constitute final action of the Board.
- B.** All approvals are subject to completion of satisfactory conditions of approval if any exist. No Occupancy Permits will be issued by the Building Inspector/Code Enforcement Officer until All conditions are satisfied unless otherwise permitted by the Board in the Notice of Decision.
- C.** The Board shall have the power to modify or amend its approval of a plat on application of the owner, lessee, or mortgagee of the premises, or upon its own motion, if such power is reserved by the Board in its original approval. Any subdivision coming before the Board for modification or amendment shall be placed on the agenda and posted in the usual manner. The Board reserves the right to require certified mail, return receipt requested, notification of abutters and interested parties; in which case the applicant shall submit a list of abutters names and addresses and letters ready for mailing, together with costs. Thereafter, notification shall be given as required for Board consideration of an initial application.
- D.** If the Board finds, as a result of a Compliance Hearing, that any of the conditions or terms of final subdivision approval are being violated, the Board shall give notice to the owner or occupant to make such corrections as it deems necessary to comply with the conditions or terms of the approval. If such corrections are not completed within a specified time from the original violation notice, the Board may continue with compliance enforcement up to and including revocation of the Subdivision Approval.

SECTION V. APPLICATION FOR MINOR/LIMITED SUBDIVISION APPROVAL

5.1 Scope

Review of proposals with notice to abutters and public hearing may be expedited using the procedures of this section in case of:

- A.** Proposals involving minor/limited subdivisions which create not more than three lots for building development purposes, with no potential for re-subdivision, and fronting on an existing street, or
- B.** Proposals which do not involve creation of lots for building development, such as proposals for lot line adjustments or boundary agreements which do not create unbuildable or non-conforming lots or increase the non-conformity of an existing non-conforming lot.

5.2 Filing Fee

Application for minor subdivision approval or boundary line change shall be accompanied by a fee, as may be determined by the Board from time to time, plus cost of certified letters notice.

5.3 Preliminary Consultation And Review

The applicant may first meet with the Board for preliminary consultation and review of the proposal under Section 4.2.

5.4 Final Plat and Completed Application

The applicant shall submit all documents and information required by Section 4.3. In case of a Boundary Agreement, the applicant shall submit a copy of the written agreement required by **RSA 472:4**.

In case of a Boundary Agreement or Boundary Line Adjustment requiring deeds to be recorded, the applicant shall either deliver executed deeds or other documents, with recording costs, at the time of approval, or shall designate an agent (or the applicant) who may sign to receive the approved plan within one hundred twenty (120) days of the approval and record both the plan and the deeds or other documents at the Registry of Deeds, so long as the plan and deeds are recorded the same day they are received by the applicant or the applicant's agent. If the applicant elects to record the plan and deeds, completion of the recording within one hundred twenty (120) days shall be a condition of approval.

5.5 Final Action

- A.** The application may be approved, after public hearing, at the Board meeting at which the application is formally submitted and accepted for consideration, after proper notice of submission, including notice of public hearing.
- B.** Otherwise the application may be disapproved at such a Board meeting, or modifications and/or further investigation may be required and/or final consideration deferred to a subsequent duly noticed Board meeting with public hearing.
- C.** The Board action time limits under paragraph 4.11A shall apply to applications under this Section V.

SECTION VI. GENERAL REQUIREMENTS FOR THE SUBDIVISION OF LAND

The subdivider shall observe the following general requirements and principles of land subdivision:

6.1 General Guidelines

- A.** The plat shall conform with the Moultonborough Master Plan, Official Map, the Zoning Ordinance and Regulations and the Policies of the Planning Board.
- B.** The subdivider shall give due regard to the preservation and protection of existing features; trees, scenic points, brooks, streams, water bodies, other natural areas and historic landmarks, including stone walls, in order to preserve the natural environment.
- C.** Land of such character that it cannot be safely used for building development purposes because of danger to health or peril from fire, flood hazard, poor drainage, poor soil conditions, excessive slope or other hazardous conditions, shall not be included in the minimum lot size. Areas with high water table (within 6" of the surface), floodplains, areas with less than 3' of natural soil over impermeable material (percolation rate slower than 30 minutes per inch) are examples of problems of such nature to endanger health, life or property. Such areas shall be platted but shall not be included as part of the minimum lot size.
- D.** Lot size means the total area within the boundaries of a lot exclusive of any land area designated for street purposes, including, but not limited to traveled ways(s), right-of-way(s) and cul-de-sac(s).
- E.** No portion of the protective well radius surrounding a community well (see regulation 8.4) shall be included in satisfying any minimum lot size calculation.
- F.** When required, the subdivider shall provide certification of approval of the subdivision by the State of New Hampshire Department of Environmental Services accompanied by a duplicate copy of all data submitted to them and any stipulation related to approval, and all additionally required state permits and approvals.

6.2. Easements For Utilities, Access, and Public Service

- A.** The plat shall show the boundaries of proposed permanent easements over or under private property. Such easements shall not be less than twenty (20) feet in width and shall have satisfactory access to existing or proposed public ways. Watercourses proposed for public control shall also have a permanent easement of not less than twenty (20) feet.
- B.** Where a subdivision is proposed in a location where a water supply for fire fighting purposes is not readily accessible, the Planning Board may, as a condition of final approval, require the applicant to provide for fire protection devices including, but not limited to fire ponds, cisterns or, dry hydrants, and require the developer to allow access to such devices by reserving easements to the Fire Department as the Planning Board may deem appropriate.

- C. In the case of a subdivision involving the creation of four or more lots, any one of which includes shore frontage, the applicant should provide application for an easement or easements, if appropriate, of not less than thirty (30) feet in width to allow the Moultonborough Fire Department unobstructed access from the nearest public right-of-way to the shoreline, for the purpose of installing and/or maintaining a dry hydrant, or other water-access device, for year-round access to a supply of water for fire protection purposes. Such easement shall provide that no obstructions may exist within the easement area.

The Planning Board may require construction and maintenance of a roadway of suitable materials to facilitate access of fire fighting equipment and maintenance equipment to the shoreline or dry hydrant. In addition, the Planning Board, pursuant to paragraph 4.13 of these Regulations, may require the applicant to post a bond or other appropriate security to insure that the construction of fire fighting access facilities be completed within a certain stated period of time, but in any event, such construction shall be completed before occupancy of any units in the proposed subdivision.

The Planning Board may require, as a condition of final approval, that the Moultonborough Fire Department review and comment on this aspect of the application and the Planning Board may require that the applicant comply with design and specifications provided by the Fire Department as to construction and maintenance of any improvements under the preceding two (2) paragraphs.

- D. The Board may require open spaces and/or parks (not to exceed 15% of total area of the subdivision) suitably located for recreational purposes and of appropriate area and physical characteristics for this use. Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners by a covenant in the deed whether or not required by the Board, shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.
- E. All new major subdivisions shall install underground conduits, or reserve space on utility poles, for cable access infrastructure. All such access must be granted within an easement for the provision of future cable access to the subdivision.

6.3 Flood Hazard Areas

- A. Subdivision proposals having land designated as “Special Flood Hazard Areas” by the Federal Emergency Management Agency shall be submitted indicating sufficient evidence so as to assure the Board that:
 - 1) All such proposals are consistent with the need to minimize flood damage.
 - 2) All public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage.
 - 3) Adequate drainage is provided so as to reduce exposure to flood hazards.
 - 4) The provisions of any Floodplain Development section of the Town’s Zoning Ordinance are met.

- B. The Board shall require new or replacement water supply systems and/or sanitary sewage systems to be designated to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems to be located so as to avoid impairment of them or contamination from them during flooding.

6.4 Monuments

The subdivider shall install two (2) iron pins or granite or other suitable material monuments at least twenty-four (24) inches in length and four (4) inches square with suitable center point at each street intersection on the right-of-way line, and iron pin monuments not less than 1/2 inch in diameter and twenty-four (24) inches long at all points on boundary lines of lots where there is a change of directions and at all lot corners.

6.5 Documentation Of Impacts

Pursuant to **RSA 674:36, II** it shall be the responsibility of the developer, if the Board deems it necessary, to provide an accurately documented environmental and economic impact statement. Such statement may require documentation on drainage, erosion, forest productivity, ground and surface water quality, traffic safety, public services and any other factors that could impact the short and long term well being of the public in Moultonborough.

SECTION VII. DESIGN STANDARDS FOR ALL SUBDIVISIONS

7.1 Lots

- A. The width of blocks shall not be less than three hundred (300) feet nor shall the length exceed twelve hundred (1200) feet.
- B. Lot length, as measured from the street frontage, shall not exceed four (4) times the average width of the lot, as measured in fifty-foot intervals along the longest lot line, perpendicular to the lot line.
- C. Each lot shall be in conformance with Table I of Article III of the Zoning Ordinance in order to assure adequate space for safe, long term operation. In no case, however, shall any lot contain less than 40,000 square feet of usable land area, exclusive of land area designated for street purposes.
- D. Where there is a question as to the suitability of the lot(s) for the intended use due to the presence of such factors as public safety, scattered or premature development, rock formation, steep slopes, unusual surface configuration, tendencies to periodic flooding, poor drainage, unsuitable soils and inadequate capacity for sanitary sewer disposal, the Board may, after investigation, withhold approval of such lot(s).
- E. All lots shall have frontage on a street, in accordance with RSA 674:41.

- F. Clustering of housing units may be permitted and is encouraged for the preservation of open space, to promote more efficient use of land, and to provide flexibility in subdivision design.
1. Where clustering or multiple dwelling units are permitted, the minimum lot size shall be as determined by the Board based upon the character of the land involved, the type of housing proposed and other pertinent factors. The total usable area in the subdivision must still equal the minimum lot size requirements as determined by using the soils and slopes table times the number of lots or units planned. The area which has not been built upon shall be consolidated into open space. The total number of units to the acre shall remain substantially the same overall density as required in a conventional subdivision layout with all requirements of the Subdivision Regulations and the Policies of the Board being met.
 2. The common open space shall be designed as an integral part of the development and used for recreation, conservation or park purposes and open at least to the owners and occupants of the lots in the cluster development.
 3. The common open space shall be so defined on the subdivision plan and shall be made subject to a deed restriction which shall thereafter prohibit further subdivision of open space or the use of the open space for purposes other than originally designated.
 4. Should some of the open space land not be owned in common, such as a golf course, country club, or play courts and fields such ownership and maintenance responsibility shall be specifically stated in the Home Owners Association documents, or other equivalent documents.
 5. A statement of adequacy of utility systems for provision of water service, fire protection, sewer service and storm drainage shall be provided to the Board where applicable.
 6. All maintenance of common owned land and infrastructure shall be detailed in the Home Owners Association, or other equivalent documents.
 7. All new major subdivisions shall install underground conduits, or reserve space on utility poles, for cable access infrastructure. All such access must be granted within an easement for the provision of future cable access to the subdivision.

7.2 Road Design And Construction

- A. **Acceptance of Existing Roads,** The Board will not recommend acceptance of any existing street by the Town unless it meets the specifications contained in these Regulations and the Policies of the Board. Subdividers shall be assessed that portion of off site improvements which bears a rational nexus and relationship to the needs created by, and the special benefits conferred upon the subdivision. The cost of such improvements shall be determined by an engineer approved by the Board.

B. All newly created roads in any subdivision approved by the Moultonborough Planning Board shall have signs erected by the subdivider at all intersections, in accordance with the following specifications:

1. Road intersection signs – All road intersection signs shall be high intensity retro-reflective sheeting, green in color, on a 9” aluminum extruded panel (1/8” thick, with 3/16” at extruded edge). The lettering shall be 6” white reflective lettering. The sign panel length to be determined by name length. Sign mounting shall be on a U channel post with top mount 9” sign mounting bracket. The sign posts must be a two post system break-a-way design with a 3’ in ground mounting post, coupled to a 10’ top post, which must be a minimum of 7 1/2 feet off roadway surface. Signs should be mounted a minimum of 5’ from the roadways edge.
2. Hardware - All signs shall be mounted with stainless steel or aluminum lag bolts within one (1) foot of the top of the post.
3. Posts - All posts shall be 10' hot dip galvanized flanged channel steel, set in a hole to an elevation of 7 1/2' above ground level. All signs are to be installed so as not to interfere with any plowing or roadside maintenance, and shall be placed no more than 10' and no less than 8' off the traveled way.
4. Names of roads - All newly created roads shall be named on the application delivered to the Planning Board. All road names must be approved by the Moultonborough Board of Selectmen in accordance with the 911 Regulations.

C. Due regard shall be shown for all natural features such as large trees, water courses, scenic points and similar community assets.

D. Table of geometric and other standards for roads

1) Minimum width of right-of-way	50 ft.
2) Minimum width of roadway	
Collector	22 ft.
Local	18 ft.
3) Minimum grade	0.5%
4) Maximum grade (10 ft. in 100 ft.)	10%
5) Maximum grade at intersections within 50 feet of Intersection	3%
6) Minimum angle of intersection at center lines	60 °
7) Minimum width of shoulders (grade from pavement 1/2 in per foot)	4 ft.
8) Minimum center-line radii on curves	150 ft.

- 9) Minimum tangent length between reverse curves (s curves) 100 ft.
- 10) Minimum road crown 1/4" per ft.
- 11) If a hammer-head or cul-de-sac is proposed, a hammer-head shall be designed with a "T" with turnaround points forty (40) feet long and of the same material and width as the connecting road surface. For cul-de-sacs, a center island is required with the road surface to remain at the required widths, with shoulders on both sides for the entirety of the circle. The center island shall be greenspace, but may contain stormwater infrastructure. The cul-de-sac Right-Of-Way shall have a diameter of no less than 120 ft. Hammer-heads shall be the preferred ending to a street with no outlet. All road surfaces, shoulders and infrastructure for hammer-heads and cul-de-sacs shall be fully contained within the street right-of-way.
- 12) Adequate stormwater controls shall be provided for all road surfaces for a 24-hour, 50-year storm event.
- 13) Slopes Cut
- | | |
|----------------------|---------------------------|
| - earth | 2 horizontal - 1 vertical |
| - ledge | 1 horizontal - 4 vertical |
| - fill under 10 feet | 4 horizontal - 1 vertical |
| - fill over 10 feet | 2 horizontal - 1 vertical |
- 14) Sub-base - 12 inches minimum 3 - 6" crushed bank run gravel - 3 inch
- 15) Base – 6 inch minimum of 1 1/2" crushed bank run gravel.
- 16) Surface - Class A asphalt - 2 inches minimum coarse layer, 1 inch minimum finished layer. Subdivision road access cuts will be surfaced to the edge of the traveled way.
- 17) Grading - Remove all topsoil stumps, roots and surface rocks. All slopes shall be loamed or covered with humus material compacted to a depth of not less than 2 inches. Seeding shall be required.
- 18) Drainage - Construct adequate drainage facilities to provide removal of storm water, to prevent flooding of the pavement (24-hour, 50 year storm) and erosion of adjacent facilities. All construction must conform with all applicable laws and regulations, and must not interfere with any normal watershed drainage.
- 19) Clerk of the Works – For all new road construction, a Clerk of the Works shall be designated by the Board of Selectmen, at the applicant's expense, to oversee all required construction elements and shall verify that all projects are constructed per these Subdivision Regulations, and the most recent edition of NHDOT Standard Specifications for Road and Bridge Construction as deemed applicable by the Clerk of the Works.
- 20) Guardrails – Guardrails installed shall be as required to follow the requirements of the Road Agent and standards detailed by the NHDOT as deemed applicable by the Clerk of the Works.

7.3 Protection Of Public Thoroughfares From An Excessive Number Of Access Points

- A.** The purpose of the Regulations in this section is to maintain efficient and safe roads in Moultonborough. These provisions are designed to cause fewer distractions to motorists, fewer requirements to brake, while promoting smooth traffic flow and optimum sight distances. They are designed to ensure wise use of taxes for road construction and maintenance, and long term use of the public roadways for intra and inter Town commerce. These Regulations are also designed to help minimize potential conflict with children at play, to allow for sufficient privacy and quiet in residential neighborhoods, and to assist in maintaining the rural character of Moultonborough. All access points, including driveway entrances, shall be located to most adequately promote the safety, efficiency, and convenience of the traveling public and the residents adjacent to the roadway. Access points to through highways, public roads and streets shall be limited in number to protect the long term utility of the roadway.
- B.** Before any driveway or other access is constructed within the limits of the right-of-way of any class I or class III highways or the state maintained portion of any class II highway, a written construction permit must be obtained from the New Hampshire Department of Transportation as per **RSA 236:13**. State approvals shall be submitted to the Board as part of the subdivision application material.
- C.** Before any driveway or other access is constructed within the limits of the right-of-way of any Town road or highway, a written permit must be obtained from the Town of Moultonborough and shall be submitted to the Board as part of the subdivision application material.
- D.** All subdivision plans (concerning access to any roadway in Town) shall indicate the location of the driveway or other access points, the width of the driveway, entrance, exit or approach and the safe sight distance for each access point.
1. The maximum width of any access point or driveway shall be fifty (50) feet measured parallel to the highway centerline at the curb or shoulder line with a desirable width of thirty-five (35) feet, except that an access point or driveway may be flared beyond a width of fifty (50) feet at its junction with the highway to accommodate the turning radius of vehicles expected to use the driveway or approach.
 2. Streets shall be laid out so as to intersect as nearly as possible at right angles.
 3. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited.
 4. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure proper sight distances as defined by these Regulations and Policies of the Board.
 5. Safe Sight Distance is defined as a straight line view which encounters no obstruction measured between two points along the center line of the street entirely within the street right-of-way, each point to be a height of four (4) feet above the road surface. Safe Sight Distances will be as follows:

- 1) For highways with speed limits of 30 m.p.h. or lower, 200 feet.
 - 2) For highways where the speed limit is between 31 m.p.h. and 40 m.p.h., 275 feet.
 - 3) For highways where the speed limit is between 41 m.p.h. and 50 m.p.h., 350 feet.
 - 4) For all state highways or roads with speed limits in excess of 50 m.p.h., 400 feet.
- E. No more than two (2) driveways or access points shall be permitted to a single lot entering on a single highway.
- F. For proposed subdivision along Town or state roadway frontages that exceed six hundred (600) feet, the construction of an internal street system or service road outside of the roadway right-of-way will be required to provide greater safety for the development occupants, as well as the highway users. Unusual land conditions may provide the basis for an exception, however, the Planning Board must first review and approve the proposal.

7.4 Drainage And Provisions Of Public Services

- A. Pursuant to **RSA 674:36, II** land of such character as to create a danger to health, flood or fire hazard, injury, or other menace, shall not be platted for development which would promote these hazards, until appropriate measures have been taken by the developer to eliminate such hazards. No natural drainage way will be obstructed unless adequate means are taken to provide for the runoff. Scattered or premature subdivision of land that would constitute a threat to the prosperity of the Town by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services that would necessitate an excessive expenditure of public funds, or are in conflict with the harmonious development of the Town, will not be platted for development.
- B. If sewage and water connections are required, it shall be the responsibility of the subdivider to install and connect to existing public water and/or sewage lines in accordance with current Federal, State and Local water and sewage Regulations. If water and sewage connections are not practical, all street plans will include adequate area for the future installation of public utilities should such become necessary to control pollution. In areas shown on the official sewer map as planned for Town sewer facilities, it shall be the responsibility of the subdivider to install sewage lines in accordance with current sewer Regulations.
- C. No water shall be permitted to run across the street on the surface but shall be directed into catch basins, or otherwise into ditches, and shall be piped underground in a pipe of not less than 18 inches in diameter, or such size as may be deemed necessary by the Board. No artificial or unnatural drainage flow shall be directed to abutting property so as to cause hardship to abutters.
- D. Unless public sewage and/or water facilities are provided, it shall be the responsibility of the subdivider to provide adequate information to prove that the area of each lot is adequate to permit the installation and operation of both individual on-lot water and sewage systems.

- E. All drainage or erosion control facilities must be consistent in design with the procedures and guidelines used by the Carroll County Soil Conservation District or developed by the US Soil Conservation Service.
- F. Paving or stone shall be provided in ditches where soil or velocity conditions warrant protection from erosion.
- G. Adequate measures to prevent soil erosion shall be taken during road construction and lot cleaning. Such measures may include, but not be limited to, maintenance of vegetative cover on steep slopes, seeding of road shoulders and embankments, construction of settlement basins and temporary dams.
- H. Each water system shall comply with Federal, State and Local Regulations.
- I. All stormwater and drainage infrastructure shall be designed to adequately perform in a 24-hour, 50-year storm event.

SECTION VIII. SPECIAL CONDITIONS

8.1 Subdivisions With Water Access

For subdivisions with water access, and subdivisions for the granting of ownership rights, rights to use easements, rights-of-way or other privileges permitting use of waterfront property upon which the user does not reside, for uses other than boating, the following requirements shall be met:

- A. Minimum lot size shall be determined by the soils and slopes table as shown on **Table I**.
- B. Every lot or parcel of waterfront property to be used in common shall contain a minimum area of 40,000 square feet plus 3000 square feet for each additional dwelling unit. The area required for the beach front, water access lot shall not be occupied by any dwelling unit. No portion of the waterfront lot may be counted to satisfy minimum lot size for construction or subdivision.
- C. Minimum lot dimensions for each waterfront lot shall be as follows:
 1. Minimum shore frontage shall be 150 feet for the first dwelling unit to be granted access.
 2. An additional 150 feet of frontage is required for each additional dwelling unit after the first unit, where the additional unit is to be located within 250 feet from the reference line established by **RSA 483-B**, as amended.
 3. An additional 50 feet of frontage shall be required for each additional dwelling unit to be located beyond 250 feet from the reference line established by **RSA 483-B**, as amended.
 4. The same frontage may not be allocated more than once.
 5. All newly created lots must have frontage on a street, in accordance with RSA 674:41.

- D. For each dwelling unit to be granted rights of access to the water, one parking space shall be provided at the common use beach area for each such dwelling unit located more than 1/2 mile (by road) from the public body of water.
- E. All shore frontage shall be measured by using the average of the actual shore frontage, and the distance between the water front pin locations along a straight line. (Example – Actual surveyed shore frontage - 200', Distance between boundary pins in straight line - 100' = Frontage = 150')
- F. Waterfront lots may be divided into boating areas and swimming areas.
 - 1. Adequate signs and other safety features shall be provided to insure safe use of waterfront areas for boating and swimming.
 - 2. Boating areas shall be separated from swimming areas by natural or man made dividers, and adequate signs shall mark the separation.
 - 3. All boating and swimming areas must comply with standards of the State of New Hampshire, and all regulations of agencies of the State of New Hampshire applicable thereto.
 - 4. One toilet facility each for males and females shall be provided for each 25 lots or units (or portions thereof) granted rights of access.
 - 5. No dock, breakwater, dug in boat slip/basin or similar structure shall attach to the land at any point closer than 20 feet from the boundary line of the property in question.

8.2 For Subdivisions Providing Water Access Boating

Development plans for boating and swimming areas shall be submitted to the Planning Board for review prior to making application to the appropriate state agency for a permit.

8.3 Conversions To Condominiums Or Time Sharing Units

- A. Subdivision approval is required for conversion of developed property to the Condominium or Time Share form of ownership, and no building permit shall be issued prior to Subdivision approval.
- B. Existing subsurface sewage disposal facilities shall meet current construction design Regulations as set by the NHDES.
- C. The developer shall demonstrate that the lot or land area is sufficient in size to support an adequate subsurface sewage disposal system. Soils type and slope shall be identified on the plat plan.
- D. An inspection of the existing sewage disposal system and a detailed diagram showing type, extent and location of the system, certified by a registered professional sanitary engineer indicating that the system is adequate for its intended and proposed use shall be furnished to the Board.

E. Drinking water supplied from groundwater shall be protected by restricting land use and prohibiting all activity detrimental to water quality within the protective radii based upon the average daily demand on the system as follows:

1) System Demand (Gallons Per Day)	Protective Radius (In Feet From Source Of Supply)
400-----	75
800-----	125
1200-----	150
1600-----	175
2000-----	200

2) No sewer, sewage or waste disposal system shall be permitted within the protective radius. (refer to 8. 4b)

F. The responsibility for maintenance, operation, replacement and protection of roads and other infrastructure including the water supply and sewage disposal systems shall be clearly established by the Condominium or time sharing agreement, Declaration, or Bylaws, copies of which shall be furnished to the Board.

8. 4 Protective Well Radius For Community Water Systems

A. Whenever a subdivision application involves the creation of four (4) or more lots, to be served by a community water system, the applicant shall provide for a protective well radius.

B. In order to protect the long-term quality of each community well, to promote public health and safety and to prevent the contamination or pollution of water in community wells, no buildings or other structures may be located within the protective well radius; nor may there be any roadways or other improvements which would increase the risk of soil contamination or other underground water contamination. A structure to house a pumping facility and/or water storage related to the community water system may be located within the protective radius. The size of the protective well radius shall be determined pursuant to paragraph 8. 3(e)(1).

C. No portion of the protective well radius surrounding a community well shall be included in any minimum lot size calculation.

8.5 Private Easements, Restrictions, Title

If the Board approves an application where a substantial dispute exists as to the existence, enforceability or validity of private land restrictions or easements, or as to issues relating to title to the property, the Board may require that the following or similar statement be added to the plat or to the Board’s Notice of Decision; “By its approval of this application (plan), the Moultonborough Planning Board offers no opinion whether this application (plan) may be affected by private easements, land use restrictions, restrictive covenants, title issues, or other private agreements or requirements relating to the ownership or use of this property.”

SECTION IX - MISCELLANEOUS

9.1 Adoption and Amendments

These Regulations shall become effective after a public hearing or hearings have been held and after having been passed by the vote of the majority of the Board. These Regulations may be amended or rescinded by the Board, but only following public hearing(s) on the proposed change(s). The Chairman or Secretary of the Board shall transmit a record of any changes so authorized to the Registrar of Deeds for Carroll County.

9.2 Penalties

Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers, rents, leases, or sells any land, before a plat of such subdivision has been approved by the Board and recorded or filed in the office of the Carroll County Registrar of Deeds shall forfeit and pay a penalty of five hundred dollars (\$500.00) for each lot or parcel so utilized; and the metes and bounds in the instrument of transfer or other document used in the process shall not exempt the transaction from such penalties. The execution of a deed which constitutes a subdivision is subject to the foregoing penalty. The owner or agent of the owner and the party executing the deed will be held individually responsible for the violation. The Town, through its solicitor or other official designated by its Selectmen, may enjoin such transfer(s) and may recover the said penalty(ies) by civil action.

9.3 Separability

If any provision of these Regulations is held to be invalid or unconstitutional by any court with jurisdiction, such holding shall not effect, impair or invalidate any other provisions of these Regulations.

9.4 Appeals

As provided in **RSA 677:15**, any persons aggrieved by any decision of the Board concerning a plat or subdivision may present to the Superior Court a petition, duly verified setting forth that such decision is illegal in whole or in part, specifying the grounds of the illegality.

9.5 Active and Substantial Development or Building: Substantial Completion

The Planning Board may establish, with input from the applicant and interested parties, the threshold level of work which shall constitute "active and substantial development or building" for purposes of **RSA 674:39**, as amended, but shall be no later than one (1) year from the time of Subdivision Plat recording, unless extended by a vote of the Board as permitted below. The specification of such level of work may be noted on the plan, or incorporated as part of the Planning Board's decision approving the application.

The Planning Board may also, for good cause, extend the 12 month period set forth in **RSA 674:39**, I, one (1) time only, as amended, and may require that an appropriate note be placed on the plan, or that such extension be incorporated in the approval of the application.

The applicant may seek Planning Board certification that active and substantial development or building has begun or is complete, or that substantial completion of the improvements has been achieved, and the Planning Board, upon receipt of such request for certification, may schedule a public hearing, with

notice to abutters and interested parties, at the applicant's expense, or in the alternative, may issue such certification without a public hearing, after inspection of the site by the Planning Board.

Failure of the subdivider to achieve substantial completion within four (4) years after approval of the application may constitute abandonment.

9.6 Voluntary Merger

Any owner of two (2) or more contiguous preexisting approved subdivided lots or parcels who wishes to merge them for municipal regulation and taxation purposes may do so by applying to the Planning Board, by filing an application for Voluntary Merger, along with an administrative processing fee. Upon such application, the Planning Board shall determine whether the merger would violate any Moultonborough Ordinances or Regulations, and if there would be no such violation, the Planning Board shall approve the Voluntary Merger, and shall file a copy of the approved notice of merger with the Selectmen's agent. No such merged parcels shall thereafter be separately transferred without subdivision approval.