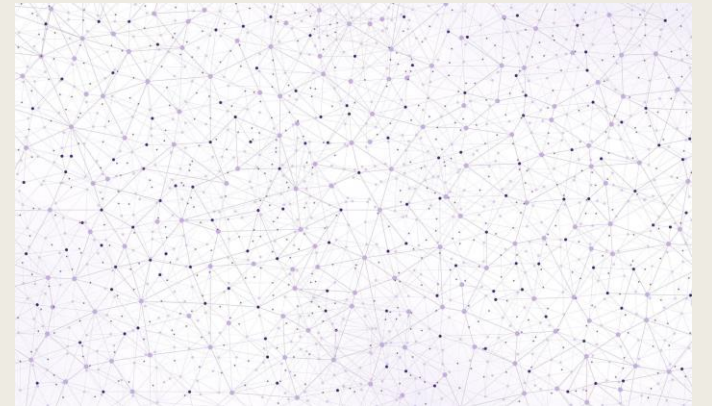
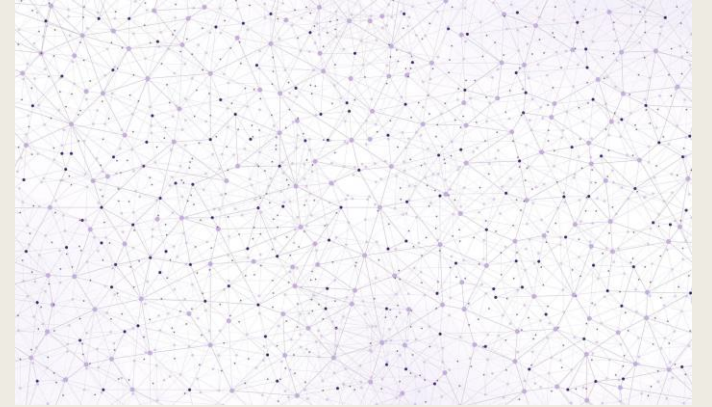


# Introduction to Subdivisions

Hosted by:

MCOG and LCRPC





# What is a Subdivision?

30-A M.R.S.A §4401:

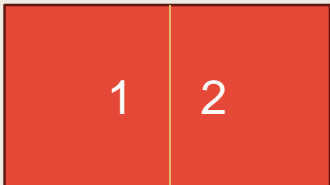
"The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. The term also includes the division of a new structure on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period."

Towns may NOT adopt a definition that expands this definition.

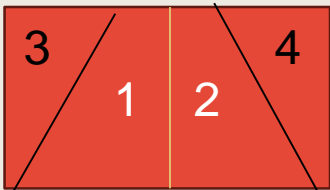


# When do you start counting?

---



- The first dividing of a parcel creates 2 lots. The next division of one of the two lots, regardless of who does it, creates the 3rd lot that would trigger subdivision review.
- If the subdivider is retaining one of the lots that they have used for a primary residence for at least 5 years before the split, it does not count towards the subdivision.
- If the initial split took place at least 5 years ago, it no longer counts towards the subdivision process.
- §4401 and §4402 outline multiple exemptions unless the Town can demonstrate the intent of the developer is to avoid subdivision review.



# What does NOT count for Subdivisions?

---

- Divisions accomplished by devise (will and testament)
- Divisions accomplished by condemnation
- Divisions accomplished by order of court
- Divisions accomplished by gift to a person related to the donor by marriage, blood, or adoption. Must be held by relative for a period of 5 years before a sale or split may occur.
- Division accomplished by a gift to the municipality in which the municipality accepts the gift.
- Division accomplished by transfer to an abutting land owner that does not create additional lots.
- Division of a tract or parcel upon which lots contain permanent dwelling structures that were legally existing before September 23, 1971.

# Other notable exceptions

---

- A municipality may include in their ordinance that a lot of 40 acres or more may be exempt from subdivision review. The land must be located entirely outside any identified shoreland area.
- Subdivisions that have been in violation for at least 20 years become exempt. Until then, the lots are subject to subdivision review.
- As of July 1, 2018, the division of a new or existing structure into 3 or more dwelling units is not subject to subdivision review. This means apartments only go through your local municipal site plan review process.

# Process

---

- Subdivisions must be approved by the local Planning Board, unless your local bylaws outline a different process.
- Subdivision law is meant to protect consumers and prevent overdevelopment near wildlife habitats and wetlands.
- Can take months to complete depending on the time to get land surveys, contractors, and Planning Board meetings.
- 3-steps: Pre-application, Preliminary, Final
- Towns may not have any more than the 3 stages above.
- If the subdivision crosses municipal boundaries, there shall be a joint meeting between both municipal authorities to review the application unless a waiver is granted.

# Notices

---

- When the application has been filed, advertisements must go out to the applicant and local newspaper.
- State law (30-A MRSA §4403) outlines public hearing requirements.
- Date, time, and location of public hearing must be published at least twice in a local newspaper. First publication must be at least seven (7) days prior to the public hearing.
- Those that abut the property under subdivision review must receive a notice in the mail. Towns should keep a list and record of letters that were sent out. If someone does not receive a letter, it does not stop the entire process.
- If the subdivision is located within a source water protection area, the water company must also receive a letter advertisement.

# Pre-application

---

- Presenting a concept with no firm commitments
- Applicant gets opinions from the Planning Board before committing any expensive purchases.
- Planning Boards and public should not anticipate all questions will be answered.
- A site map should be provided to show the lot divisions, any wetlands, utilities, potential road/access, boundary lines, and other notable items.
- The site map does not have to be done by a professional at this time.
- Applicant may provide as much material as they would like to share.



# Preliminary

---

- Equivalent to the site plans for most Planning Boards.
- Roughly 90% of the work would be done at this stage.
- Planning Board must determine if Review Criteria under 30-A MRSA §4404 is addressed.
- Lot divisions that require a variance must go to the Board of Appeals.
- Commonly required items include:
  1. A land survey by a certified professional surveyor
  2. Soil testing/potential locations of subsurface systems
  3. The number of acres for each lot
  4. Stormwater management plans and soil erosion control measures.
  5. Letter from Maine State Historic Office regarding historic impact.
  6. Road/Easement plan (Public Road? Private Road Association?)

# Final Plan

---

- Plans should be completed and ready to sign by Planning Board.
- Must include contents of Preliminary Plan with any items requested by the Planning Board.
- Any Conditions of Approval noted under Preliminary review should be on the updated site plan.
- Lots shall be numbered and labeled
- Professional who created the map shall have their seal included on the plan.
- If a variance was acquired, the approved variance must be included and referenced in the Final Plan site map.
- Get statements from MDEP, MDOT, Maine State Historic Office, and any additional state agencies that may be applicable to providing a permit.
- Findings of Facts/Conclusion of Law must be used for town records.

# After the Final Plan is approved...

---

- Three copies should be signed:
- One copy must be registered in the Registry of Deeds within 90 days of approval. This may be done by the Town or the applicant. Coordination should be decided prior to approval.
- One copy is advised to stay in the Town Office to track the subdivision for any amendments.
- The third copy should remain with the applicant/developer.

# Amendments

---

- Should be treated similar to regular Subdivision Review.
- Towns can establish a different tier for different types of amendments (combining two lots together, re-drawing a single lot line but not changing the number of lots, removing a Condition of approval, etc.).

# Recommendations

---

- Have a detailed Subdivision Ordinance for YOUR community. A model ordinance will cover the basics but think about your Comprehensive Plan and needs.

Ex: 40-acre lot exemption? Major vs Minor Reviews? Recreation/Conservation needs?

- Have your Ordinance include the Review Criteria outlined by the State under 30-A MRSA §4404.
- Have a checklist going over all standards and criteria.
- Require a digital file along with physical copies to make it easier to share and make copies.
- Establish Impact Fees to well-compensate town officials throughout the process.
- Waivers should not be granted because of financial hardship.
- If a new road is proposed, who is maintaining it? Town, developer, or Association?

# Additional Recommendations

---

- If the project requires Town infrastructure (roads, utilities): Gather input from applicable departments and make conditions if they make recommendations.
- Public infrastructure improvements should be at the expense of the developer.
- Open-Space/Cluster Subdivisions can be established in municipalities to encourage conservation in exchange for smaller lot sizes.

# Resources

---

- Maine Municipal Association
- Midcoast Council of Governments
- Lincoln County Regional Planning Commission

# Questions?

---

- Maxwell Johnstone, [mjohnstone@midcoastcog.com](mailto:mjohnstone@midcoastcog.com)
- Emily Rabbe, [erabbe@lcrpc.org](mailto:erabbe@lcrpc.org)