

Town of Robbinston

Subdivision Ordinance

March 28, 2022

Section 1 Purposes and authority

- A. The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Robbinston, to protect the environment, to promote the development of an economically sound and stable community, and to uphold the State Subdivision Law (30-A M.R.S. § 4401 et seq.).
- B. This ordinance is adopted in accordance with the provisions of 30-A M.R.S. § 4403. This Ordinance is known and may be cited as the Subdivision Ordinance.

Section 2 Applicability; relationship to other ordinances or laws

- A. The provisions of this Ordinance apply to all land and buildings proposed for subdivision as herein defined. Subdivisions that existed, that were approved by the Planning Board, or that were legally recorded at the Washington County Registry of Deeds prior to September 23, 1971, are not subject to this Ordinance, but any new divisions as herein defined within such subdivisions are subject to this Ordinance. This Ordinance does not apply to airports with an approved airport layout plan, subdivisions in existence for at least 20 years, or the division of new or existing structures, in accordance with 30-A M.R.S. § 4402.
- B. This Ordinance in no way impairs or removes the necessity of compliance with any other ordinance, rule, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a higher standard for the protection and promotion of health and safety, the provisions of this Ordinance prevail.
- C. The previous Subdivision Ordinance in Part III of the Land Use and Development Code as amended in March 1995 is hereby repealed.

Section 3 Administration

- A. This Ordinance is to be administered by the Town of Robbinston Planning Board, with the assistance of the Code Enforcement Officer.
- B. In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Planning Board

shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Planning Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Planning Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the agenda may be heard only after all agenda items have been completed, and then only if a majority of the Planning Board so votes. However, the Planning Board shall take no action on any application not appearing on the written agenda.

Section 4 Criteria for approval

In approving subdivisions within the Town, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of 30-A M.R.S. § 4404, as well as all applicable provisions of the Town of Robbinston Land Use Ordinance. The Planning Board shall deny the application if it concludes any of the criteria have not been satisfied. The Planning Board may, as a term or condition of approval, establish any reasonable condition to ensure the subdivider can meet any of the below criteria.

A. The proposed subdivision will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:

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

B. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

C. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

D. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

E. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by 23 M.R.S. § 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S. § 704 and any rules adopted under that section;

F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

G. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

H. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

I. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;

J. The subdivider has adequate financial and technical capacity to construct, operate, and maintain the proposed development and meet the standards of this Ordinance. This includes, but is not limited to, presenting evidence of the following:

1. An estimate of all anticipated costs associated with the development;

2. The subdivider's proposed method of meeting such costs, including financing arrangements, grants, and the like;

3. A curriculum vita of each professional associated with the design or construction of the proposed development;

4. A description of all similar projects completed by the developer or the professionals assisting with the development;

5. Evidence of the subdivider's prior conduct as a measure of likelihood to meet all conditions of approval, which may include without limitation

(a) violations of local, state, or federal land use, environmental, and building laws, ordinances and regulations, and

(b) incomplete or poorly completed developments.

Additionally, as evidence of financial capacity, a subdivider must submit a letter from a bank, credit union, or similar financial institution, stating that it knows the applicant and the applicant has sufficient funds or has committed access to sufficient funds to undertake the project. The financial capacity letter shall reference a cost for the project and be submitted with corresponding cost estimate.

The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the developer has the financial and technical capacity to meet the subdivision regulations, including but not limited to requiring a financial guaranty or deed restriction, consistent with Section 11 of this Ordinance.

K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in M.R.S. Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(a) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(b) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, M.R.S. Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of 30-A M.R.S. § 4401(1), on September 23, 1983;

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

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

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

O. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

P. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S. § 480-B(9);

Q. The proposed subdivision will provide for adequate storm water management;

R. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 M.R.S. § 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

S. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

T. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

U. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S. § 8869(14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the bureau notifies the Planning Board that the bureau will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S. § 8868(6), and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

Section 5 Definitions

Words and terms used in this Ordinance shall have the meanings set forth below and consistent with 30-A M.R.S. § 4401. Any word or term defined in the Town of Robbinston Land Use Ordinance shall have

the definitions contained in those ordinances, unless defined differently below; other words and terms not otherwise defined shall have their customary dictionary meanings.

“Densely developed area” means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

“Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

“Freshwater wetland” means freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

“Farmland” means a parcel consisting of 5 or more acres of land that is:

A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or

B. Used for the production of agricultural products as defined in 7 M.R.S. § 152(2).

“New structure or structures” includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance.

“Outstanding river segments” means those specified river segments identified in 30-A M.R.S. § 4401(7).

“Principal structure” means any building or structure in which the main use of the premises takes place.

“Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more 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.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s own use as a single-family residence that has been the subdivider’s principal residence for a period of at least 5 years immediately preceding the 2nd division; or

2. The division of the tract or parcel is otherwise exempt under this Ordinance.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall be counted as a lot.

D. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

E. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

F. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

G. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this Ordinance. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate.

H. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

I. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this Ordinance.

J. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

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

L. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.

“Tract or parcel of land” means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

Section 6 Procedure

A. The Planning Board shall review all requests for subdivision approval. The Planning Board shall maintain a permanent record of all its meetings, proceedings, and correspondence.

B. If any portion of a subdivision crosses municipal boundaries, all meetings and hearing to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria for impact on an adjoining municipality.

C. Application requirements:

1. The application shall include the following information:

(a) Names and addresses of the owner and applicant (if other than the owner)

(b) If applicant is a corporation, whether the corporation is licensed to do business in Maine, with a copy of Secretary of State’s Registration

(c) Name of applicant’s authorized representative

(d) Name, address, and number of Registered Professional Engineer, Land Surveyor, or Planner who prepared the plan

- (e) Address to which all correspondence from the Planning Board shall be sent

- (f) Interest the applicant has in the parcel to be subdivided (e.g., option, land purchase contract, record ownership, etc.)

- (g) Interest the applicant has in any property abutting the parcel to be subdivided

- (h) Whether or not the subdivision covers the entire or contiguous holdings of the applicant

- (i) Location of property: map and lot (from Assessor's Office)

- (j) Current zoning of property

- (k) Acreage of parcel to be subdivided

- (l) Proposed method of sewage disposal and the results of an on-site soils investigation for each lot

- (m) Soils report for entire area

- (n) Names and mailing addresses of property owners within 500 feet of abutting parcel to be subdivided

- (o) The nature of any restrictive covenants to be placed on the deeds

- (p) Soil erosion and sediment control plan

2. The applicant must pay an application fee of \$150 for new or amended applications plus \$50 per lot. An application may not be considered complete until the fee is paid. All expenses in excess of this fee which are incurred by the Town incidental to processing an application shall be borne by the applicant.

D. After receiving an application, the Planning Board shall:

1. Give a dated receipt to the applicant and require the applicant to notify all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. Notice shall also be mailed to a public drinking water supplier if the subdivision is within its source water protection area. The applicant shall be responsible for all costs associated with such notifications and shall submit sufficient evidence of such notifications to the Planning Board.

2. Within 30 days after receiving an application, notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.

3. After determining that a complete application has been filed, notify the applicant and begin a full evaluation of the proposed subdivision.

E. Upon notification from the Planning Board that the application is complete, to allow for a full evaluation the applicant must submit a subdivision plan within 14 days, including a map of the tract to be subdivided and the following information:

1. Name of proposed subdivision; location of subdivision; name of subdivider; and signature and seal of Registered Land Surveyor

2. Lot numbers

3. Date, north point, and graphic map scale

4. Proposed lot lines with approximate dimensions and lot areas, and total area of land to be subdivided

5. Location of temporary markers to enable the Planning Board to locate each lot readily and appraise the basic lot layout in the field

6. Location of permanent markers, both natural and manmade
7. Location of all parcels to be dedicated to public use and the dedication
8. Location, names, and widths of existing and proposed streets, highways, easements, and rights-of-way

F. If the Planning Board determines that the application or plan requires further review by experts for design questions, the Planning Board shall notify the applicant as such. The applicant shall be responsible for any pay all fees associated with any such expert review.

G. The Planning Board may not accept or approve final plans or final documents prepared within the meaning and intent of M.R.S. Title 32, chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in 32 M.R.S. § 18226.

H. If the Planning Board decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The Planning Board shall have notice of the date, time, and place of hearing given to the applicant and published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least 7 days before the hearing.

I. The Planning Board shall, within 30 days of a public hearing, or if no hearing is held, within 60 days of determining it has received a complete application, or within any other time limit that is otherwise mutually agreed to, issue an order:

1. Denying approval of the proposed subdivision;
2. Granting approval of the proposed subdivision; or
3. Granting approval upon any terms and conditions that it considers advisable to:

- (a) Satisfy the criteria of this Ordinance;
 - (b) Satisfy any other regulations adopted by the Planning Board; and
 - (c) Protect and preserve the public's health, safety, and general welfare.
- J. The burden of proof is upon the person proposing the subdivision.
- K. The Planning Board shall make written findings of fact establishing that the proposed subdivision does or does not meet the criteria of this Ordinance.
- L. If approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with 30-A M.R.S. § 4406(1)(B), as the same may be amended.

Section 7 General Standards

- A. Any proposed subdivision shall be in conformity with the Town's Comprehensive Plan and all pertinent local, state, and federal laws and regulations.
- B. Cluster developments, conservation easements, and common driveways should be encouraged where appropriate, consistent with the Comprehensive Plan, to preserve the character of the area.
- C. Street Provisions
1. All streets in a subdivision shall have a minimum right-of-way width of 60 feet.
 2. The subdivider shall include provisions for connecting to existing roads.

3. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the Town and shall be subject to the approval of the Planning Board.

4. The subdivider retains responsibility for all inspection, construction, and maintenance costs and requirements. The subdivider shall agree in writing, binding also on any successors in interest, including a lot owners' association, to assume responsibility for the provision of roads and road maintenance, street lighting, snow removal on streets and sidewalks, school transportation, fire protection, emergency services, waste removal, and other services and facilities that the Planning Board might reasonably require to protect the health and safety of the occupants of such areas and of the Town.

5. A street shall be accepted as a public street only upon a majority vote of the Town Meeting. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement or other open space shown on such plan. When a park, playground or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title, dedication and provision for the cost of maintenance of any such area.

(a) If the street is to be accepted as a public street, the Planning Board shall designate the street as a major, collector, or local street and indicate whether the street is to be built to urban or rural standards.

6. Where the subdivision streets are to remain private streets, the following words shall appear on the recorded plan: "All streets in this subdivision shall remain private roads to be maintained to Town standards by the developer or the lot owners and shall not be accepted or maintained by the Town."

Section 8 Recording of plan

Upon approval of a subdivision plan, plat, or document, the plan, plat, or document shall be recorded in the Washington County Registry of Deeds within 90 days.

Section 9 Revisions to approved plans

Any application for subdivision approval that constitutes a revision or amendment to a subdivision plan that has been previously approved shall indicate that fact on the application, shall identify the original subdivision plan with the title of the subdivision and the book and page or cabinet and sheet on which it is recorded at the Registry of Deeds, and shall include the proposed revisions or amendments. In reviewing such an application, the Planning Board's review shall be limited to those portions of the plan that are proposed to be changed, and the Planning Board shall make written findings of fact establishing that the proposed revisions do or do not meet the criteria of this Ordinance.

Section 10 Inspections; enforcement; violations and penalties

A. At least five days prior to commencing construction of required improvements, the subdivider shall notify the Code Enforcement Officer in writing of the time when they propose to commence construction of such improvements so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

1. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Planning Board, subdivider, and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.

B. The Code Enforcement Officer shall enforce this Ordinance.

C. The Town of Robbinston may institute proceedings to enjoin a violation of this Ordinance. If a violation is found in court, the Town of Robbinston shall be awarded its reasonable attorney's fees and costs.

D. Violations

1. No plan of a division of land within the Town that would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with these regulations.

2. A person, firm, corporation, or other legal entity shall not convey, offer, or agree to convey any land in a subdivision that has not been approved by the Board and recorded in the Registry of Deeds.

3. A person, firm, corporation, or other legal entity shall not sell, lease, or otherwise convey any land in an approved subdivision that is not shown on the plan as a separate lot.

4. No public utility, water district, sanitary district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.

5. Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, and construction of buildings that require a plan approved as provided in these regulations and recorded in the Registry of Deeds.

6. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

7. Any person, firm, corporation, or other legal entity who violates any term or condition of an approval or any provision of this Ordinance shall be punished in accordance with the provisions of 30-A M.R.S. § 4452, as the same may be amended. A fine or penalty may be imposed for each violation. Each day of violation shall constitute a separate offense with respect to each violation.

8. Additional violations of this Ordinance include, but are not limited to, the following:

(a) Presenting incomplete or false information to obtain an approval or permit;

(b) Continuing land use activity that would result in the violation of federal or state law or local ordinances; and

(c) Exceeding the scope of the work for which a permit was issued.

Section 11 Performance Guaranties

A. The Planning Board may require the applicant to provide the Town with a performance guaranty in the form of one or more of the options listed in this section, in an amount that will cover at least 100 percent of the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs. The performance guaranty instrument must specify a date after which the applicant will be in default and the Town shall have access to the funds to finish construction. The performance guaranty may, in the discretion of the Planning Board, provide for partial releases of the performance guarantee amount as specific portions of the required improvements are completed.

B. A guaranty may be in the form of an escrow account funded by cash or certified check payable to the Town of Robbinston and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable by the municipal officers; a performance bond payable to the Town issued by a surety company, approved by the municipal officers; or an irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the municipal officers.

1. A cash payment for the establishment of an escrow account shall be made by either a certified check payable to the Town of Robbinston or direct deposit into a bank account opened in the name of the Town of Robbinston as escrow agent. Any interest earned on the escrowed funds shall be retained by the Town.

2. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

3. An irrevocable letter of credit from a bank or other lending institution shall indicate that the funds have been set aside for the construction of the subdivision and shall not be used for any other project or loan.

C. The performance guaranty shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guaranty to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

D. The performance guaranty shall remain in force for the entire period during which development of the subdivision occurs (or in the case of default, while the Town pursues its remedies for default) until the guaranty is released by the Town. If the time frame for constructing the improvements covered by the guaranty is extended, the performance guaranty shall also be extended.

E. Prior to the release of any part of the performance guaranty, the Planning Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual attained by the Town and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the requirements for that portion or phase of the subdivision for which the release is requested.

Section 12 Waivers

A. Where the Planning Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety, and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of these or any other regulations. Any waivers granted hereunder are not a variance and may be granted by the Planning Board in the absence of a hardship.

B. Where the Planning Board makes written findings of fact that, due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety, or welfare or is inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions. Any waivers granted hereunder are not a variance and may be granted by the Board in the absence of a hardship.

C. When the Planning Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

D. In granting waivers to any of these regulations, the Planning Board shall require such conditions as will assure the objectives of these regulations are met.

Section 13 Appeals

An aggrieved party may appeal any decision of the Planning Board under these regulations within thirty days of the date the Board issues a written order of its decision to the Board of Appeals in accordance with the procedure established in the Town of Robbinston Land Use Ordinance.

Section 14 Amendments

A. Amendments to this Ordinance may be initiated by the Planning Board provided a majority of that Board has so voted, or by the municipal officers provided a majority of the municipal officers has voted to refer a proposed amendment to the Planning Board, or by written petition of ten percent of the registered voters of the Town. All proposed amendments must be referred to the Planning Board for their review and recommendation.

B. The Planning Board must hold a public hearing prior to the adoption of any amendment to this Ordinance, with notice of the hearing provided at least seven (7) days prior to the hearing.

C. For a proposed amendment to be adopted, it must be approved by a majority vote of the Town Meeting.

Section 15 Severability and effective date

Should any section or provision of this Ordinance be declared by the courts to be invalid, such section or provision does not invalidate any other section or provision of this Ordinance, and to this end, the provisions of this Ordinance are hereby declared to be severable.

The effective date of this Ordinance is March 28, 2022.