

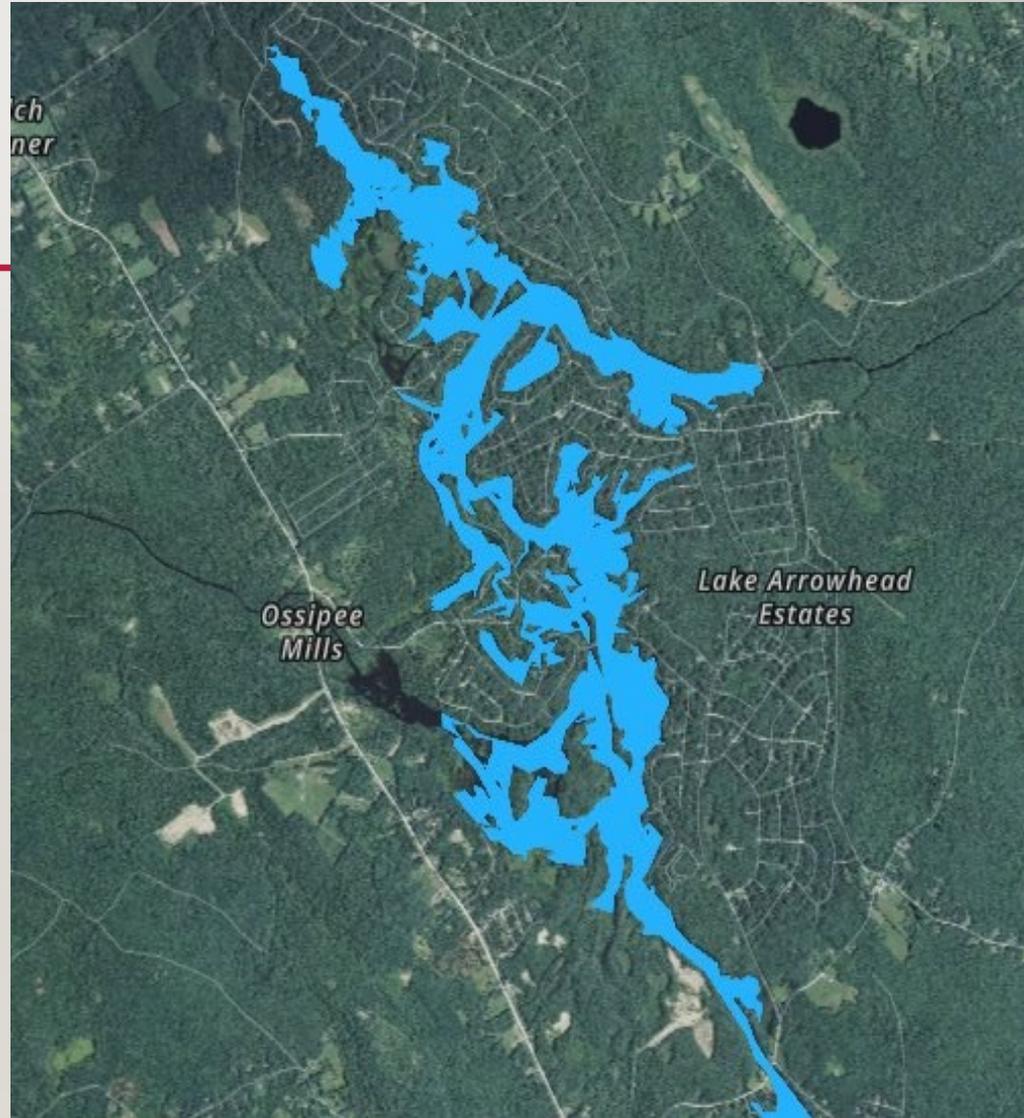
# SUBDIVISIONS & SUBDIVISION LAW

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- **Lee Jay Feldman, Director of Planning**



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- **In the Beginning**
  - **The subdivision law was created by the Legislature due to the large land split that occurred with the development of Lake Arrowhead in Waterboro and Limerick several hundred house lots were created at the time as vacation homes in the mid 1960's with no review.**



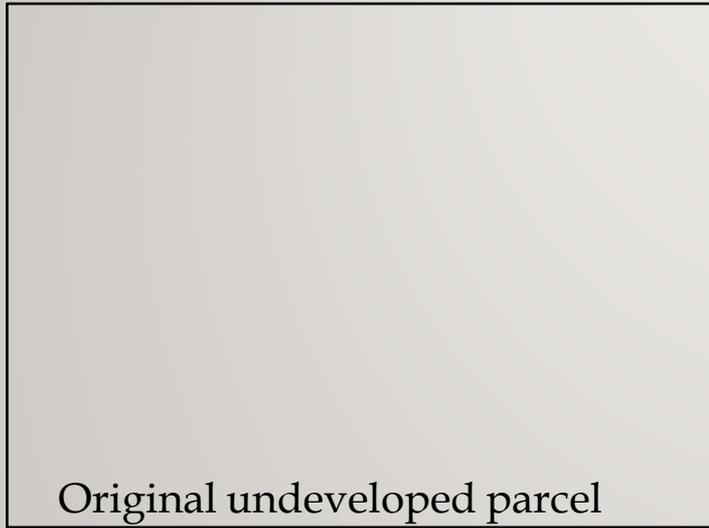


# WHAT IS A SUBDIVISION

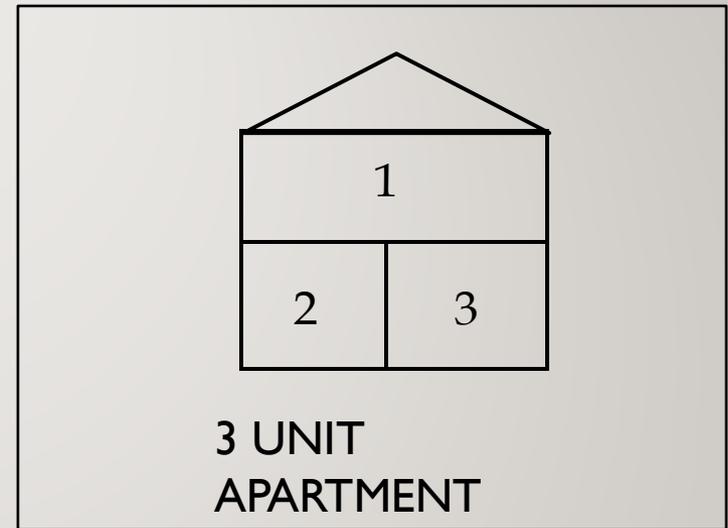
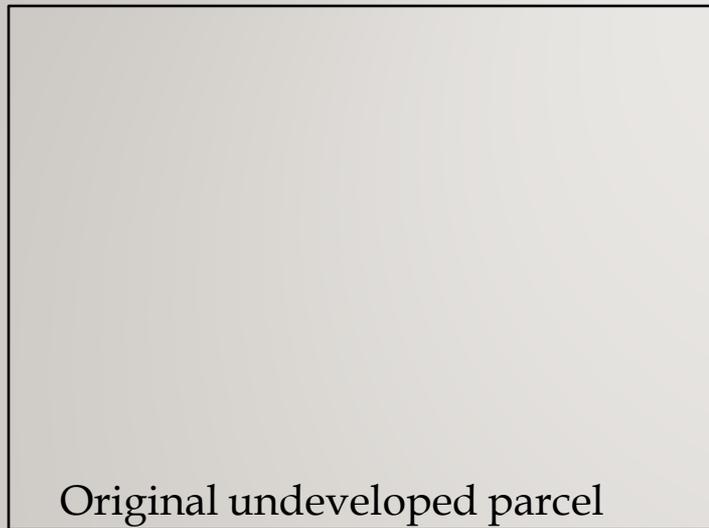
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# HOW DOES ONE CREATE A SUBDIVISION?

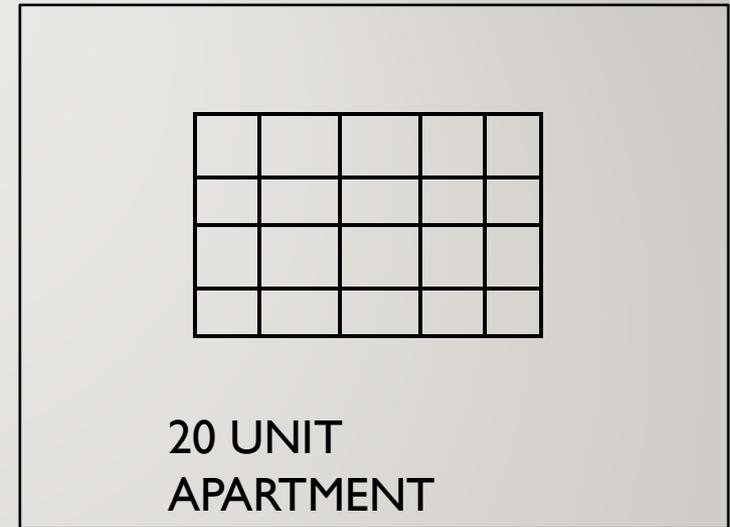
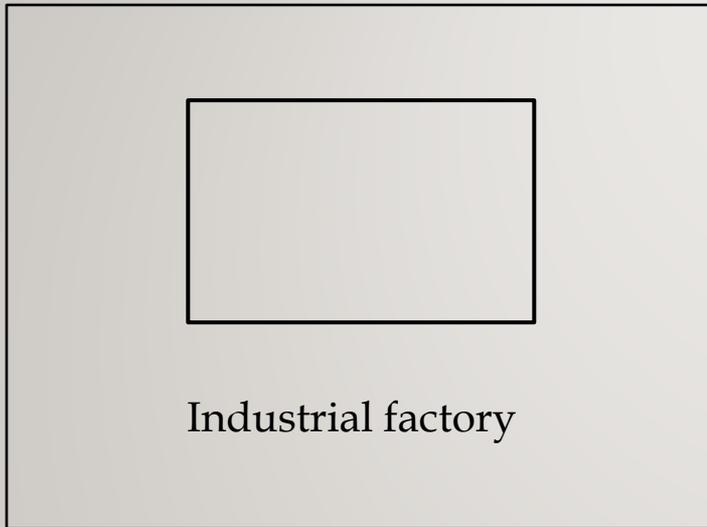
- 30-A M.R.S.A. §4401.4.
- The division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971.
- Includes the division of structures into 3 or more dwelling units, the construction or placement of 3 or more dwelling units, and the division of an existing structure used for commercial or industrial use into 3 or more dwelling units.



Division of a parcel into 3 or more lots



Construction or placement of 3 or more dwelling units  
If the town considers these as a Site plan Review  
Conditional Use or Special Exception Use and that  
process is just as stringent as the Subdivision law this  
process may be used as well.



Division of an existing structure used for commercial or industrial use into 3 or more dwelling units

WHAT IS NOT  
CONSIDERED  
A  
SUBDIVISION?  
30-A M.R.S.A.  
§4401.4.D.

- A division accomplished by devise (will and testament)
- A division accomplished by condemnation
- A division accomplished by order of court
- A division accomplished by gift to a person related to the donor; (Spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption) donor had property for 5 years prior to gift; if gift is sold within 5 years to unrelated person then gift is no longer exempt; gift cannot be more than 1/2 assessed value of real estate
- A division accomplished by gift to a municipality
- A division accomplished by the transfer of land to abutting landowners; if exempt land is transferred within 5 years without all of the merged land then original transferred land no longer exempt
- An Out Sale lot accomplished before the subdivision however; the lot must be considered as part of the subdivision review just not numbered and reviewed for impacts.
  
- See *MRSA 30-A 4401*

WHAT IS NOT  
CONSIDERED  
A  
SUBDIVISION?  
30-A M.R.S.A.  
§4401.4.

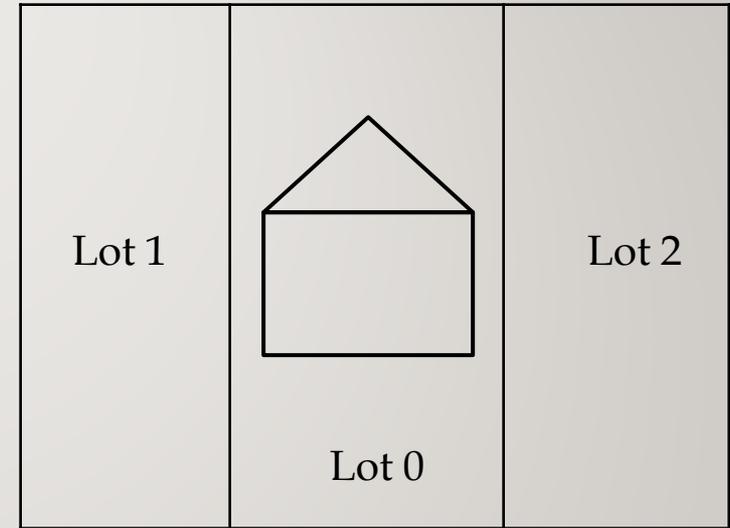
- Leased dwelling units are not subject to subdivision review if municipal reviewing authority has determined that other review exists at least as stringent as subdivision review – sometimes multifamily housing is reviewed under local Site Plan Review Ordinance
- A municipality may expand definition of subdivision to include commercial or industrial uses
- The grant of a bona fide security interest in an entire lot that has been exempted from subdivision review, does not create a lot for purposes of subdivision review

EXCEPTIONS  
TO  
SUBDIVISION  
LAW  
30-A M.R.S.A.  
§4402.

- Subdivisions approved prior to Sept. 23, 1971
- Subdivisions in actual existence on Sept. 23, 1971 that did not require approval under prior law
- A subdivision plan legally recorded in the proper registry of deeds prior to Sept. 23, 1971
- An airport layout plan with appropriate approval from MDOT and FAA
- A subdivision in violation of this law that has been in existence for at least 20 years, unless

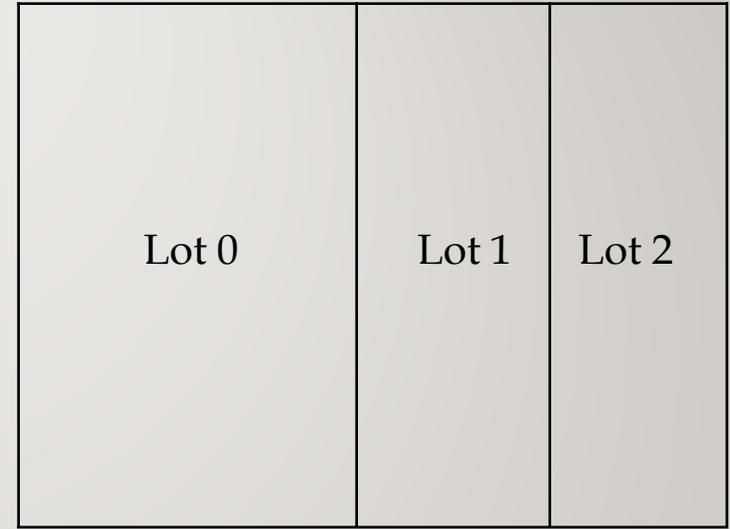
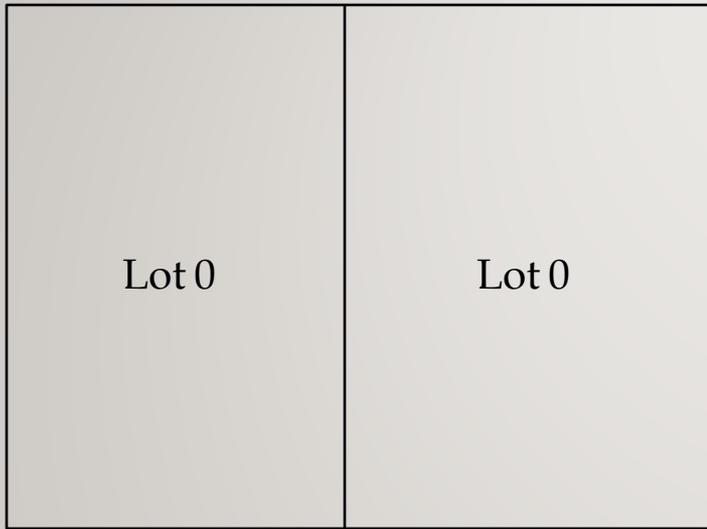
SUBDIVISION  
LAW EXISTS  
TO HELP  
PEOPLE  
MAINTAIN  
THEIR  
COMMUNITIES

- Subdivision has been enjoined (forbid by legal action)
  - Subdivision was denied, and denial was recorded in registry of deeds
  - A lot owner was denied a building permit because subdivision was in violation of law, and such denial was recorded in registry of deeds
  - Subdivision has been the subject of an enforcement action or order, and said action or order was recorded in registry of deeds
- Some, but not all, options for a landowner who is land rich and cash poor:



What is **NOT** considered a Subdivision?

30-A M.R.S.A. §4401.4.A.



Parcel subdivided in 1970

# What is NOT considered a Subdivision?

30-A M.R.S.A. §4401.4.B.

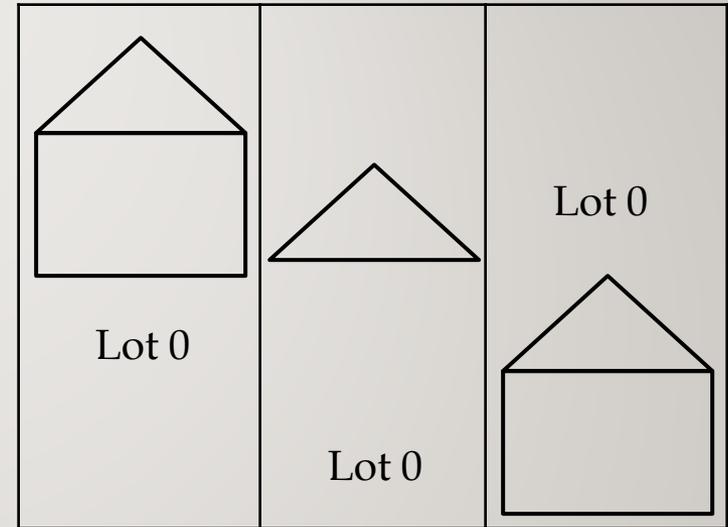
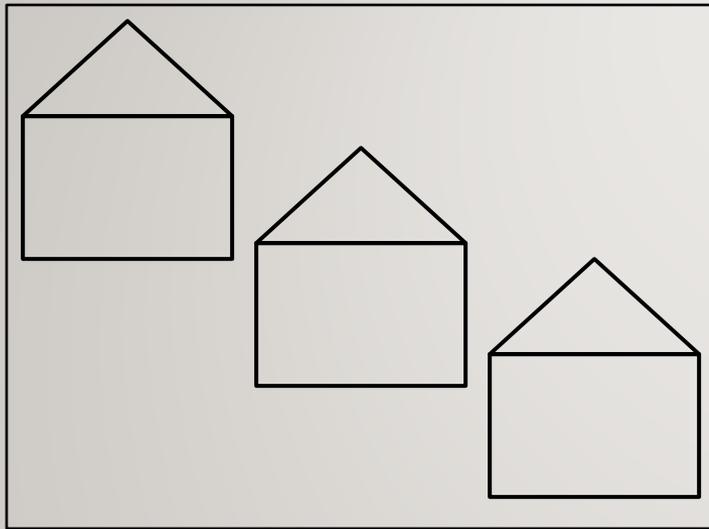
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Original undeveloped lot in a municipality that has adopted an ordinance declaring that lots over 40 acres are not lots for purposes of subdivision law, when outside shoreland zone



What is NOT considered a Subdivision?

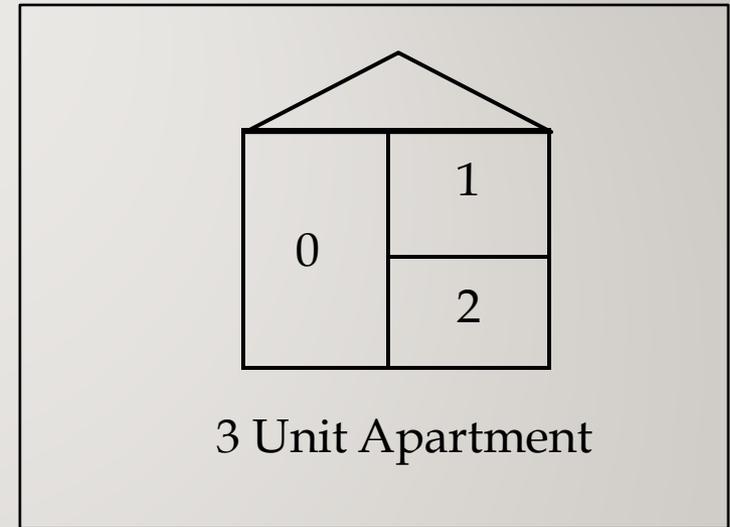
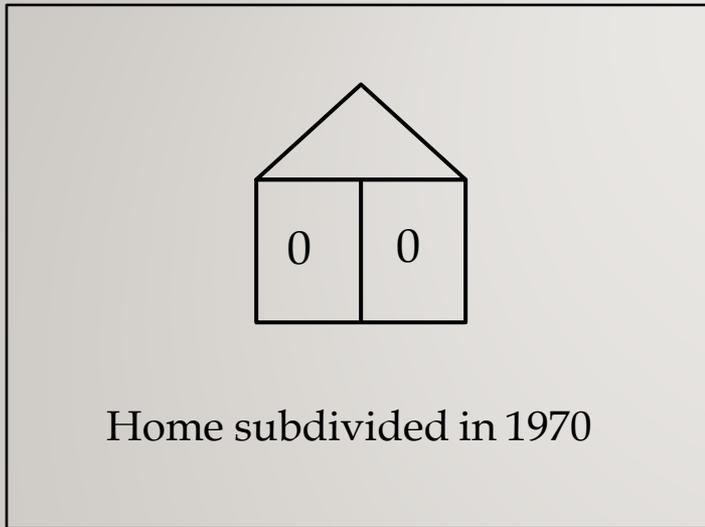
30-A M.R.S.A. §4401.4.C.



Permanent dwelling structures  
legally existing prior to  
Sept. 23, 1971

# What is NOT considered a Subdivision?

30-A M.R.S.A. §4401.4.E.

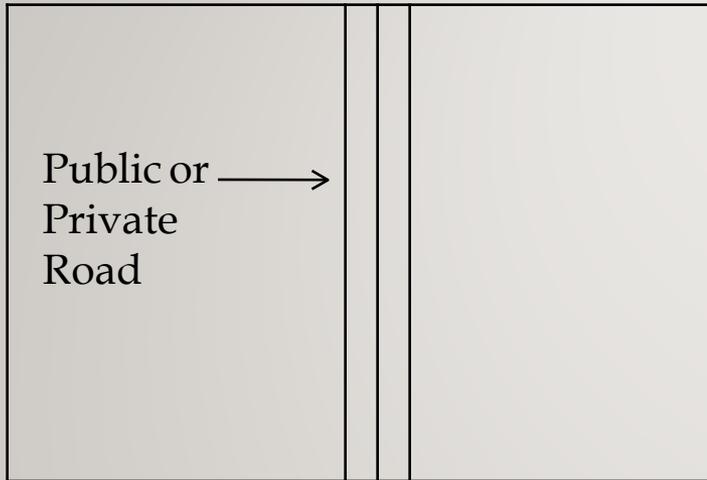


# What is NOT considered a Subdivision?

30-A M.R.S.A. §4401.4.F.

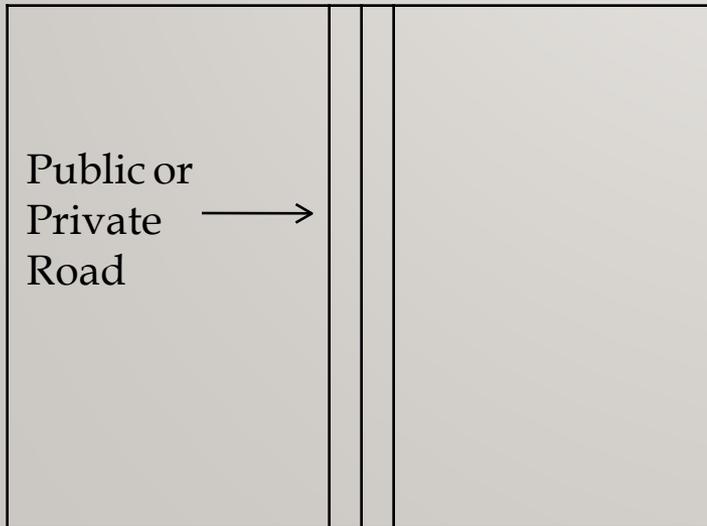
Exemptions for dwelling units follow exemptions for land

1 Parcel



Road established **after** Sept. 22, 1971

2 Parcels



Road established **before** Sept. 22, 1971

## WHAT IS A TRACT OR PARCEL OF LAND?

30-A M.R.S.A. §4401.6.

All contiguous land in the  
same ownership

# WHAT IS SUBDIVISION LAW?

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## 30-A M.R.S.A. §4401 - 4407

- Before you create a subdivision, you must submit an application to the municipal reviewing authority demonstrating that your proposed subdivision meets all the review criteria as set in law.

Municipal reviewing authority is typically the Planning Board.

# DO MUNICIPALITIES COLLABORATE ON SUBDIVISION?

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- **1-A. Joint meetings.** If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under [section 4407](#) 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 described in [section 4404, subsection 19](#).
- The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

# STANDARDS TO APPROVE A SUBDIVISION BY FOR YOUR NOTICE OF DECISION

- 11.1 Pollution
  - 11.2 Sufficient Water
  - 11.3 Impact On Existing Water Supplies
  - 11.4 Soil Erosion
  - 11.5 Traffic Conditions
  - 11.6 Sewage Disposal
  - 11.7 Impact On Municipality's Ability To Dispose Of Solid Waste
  - 11.8 Preservation Of Natural Beauty And Aesthetics.
  - 11.9 Conformance with comprehensive plan, zoning ordinance, and other land use ordinances.
  - 11.10 Financial and technical capacity.
  - 11.11 Impact on water quality or shoreline.
  - 11.12 Impact On Ground Water Quality Or Quantity
  - 11.13 Floodplain Management
  - 11.14 Identification Of Freshwater Wetlands.
  - 11.15 Storm Water Management.
  - 11.16 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services
  - 11.17 Compliance with Timber Harvesting Standards
- These are found in MRSA 4404 Review Criteria

# OTHER INTERESTING TIDBITS

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- When a lot split occurs and the deed is executed (signed) the lot is official it does not have to be recorded in the Registry of Deeds to be a legal lot
- Waivers can be granted for Submission information and street standards only! Lots must meet the minimum lot size for the zone unless they are doing a cluster development.
- Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under [Title 38, chapter 3, subchapter 1, article 6](#), where applicable, and subsequently recorded in the proper registry of deeds. *MRSA 4406 Enforcement; Prohibited Activities*
- Before signing a final subdivision plan, all conditions of approval, waivers and variances if granted by the Board of Appeals MUST be located on the plan to be recorded.
- All plans must be **Stamped and Signed by the Engineer of record** on the project or they should not be accepted for Planning Board



# LINKS YOU SHOULD BE AWARE OF

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Here's the link to MPAP's "Legislation" webpage which has a ton of resources. Planners should "book mark" it:

<https://www.maine.gov/dacf/municipalplanning/legislation.shtml>

General Land Use including Chapter 4 Subdivisions:

<http://www.mainelegislature.org/legis/statutes/30-a/title30-Ach187sec0.html>

The entire document (no link to just Chapter 4 I could find!). And then search for "Chapter 4 Subdivisions" to get to the beginning:

<http://www.mainelegislature.org/legis/statutes/30-a/title30-Ach187.pdf>

The Chapter 203: Subdivision Ordinance Review Criteria Rule:

<https://www.maine.gov/dacf/municipalplanning/docs/105c203.pdf>

