

§4406. Enforcement; prohibited activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

1. 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 I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD).]

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

- (a) Indicate the name of the current property owner;
- (b) Identify the property by reference to the last recorded deed in its chain of title; and
- (c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 2 years of the final subdivision approval or approval under Title 38, chapter 3, subchapter 1, article 6, where applicable, whichever date is later, or the variance is void. [PL 2017, c. 104, §5 (AMD).]

B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

- (1) Indicate the name of the current property owner;
- (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
- (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;
- (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and
- (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void. [PL 1989, c. 769, §1 (NEW).]

C. A building official may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD); PL 2007, c. 699, §24 (REV).]

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW); PL 1989, c. 769, §1 (AMD).]

E. Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452. [PL 1991, c. 548, Pt. D, §5 (RPR).]

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488, subsection 5, have been and will be satisfied. [PL 1989, c. 769, §1 (NEW).] [PL 2017, c. 104, §5 (AMD).]

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, the following:

A. A granite monument; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

B. A concrete monument; [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

C. An iron pin; or [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

D. A drill hole in ledge. [PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

[PL 1989, c. 104, Pt. A, §45 (NEW); PL 1989, c. 104, Pt. C, §10 (NEW).]

3. Utility installation. A public utility, water district, sanitary district or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officers and the utility, except that if a public utility, water district, sanitary district or utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with this subsection, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to this section.

[PL 2001, c. 40, §1 (AMD).]

4. Permit display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted. [PL 1991, c. 838, §15 (NEW).]

SECTION HISTORY

PL 1989, c. 104, §§A45,C10 (NEW). PL 1989, c. 326, §2 (AMD). PL 1989, c. 497, §10 (AMD). PL 1989, c. 769, §1 (AMD). PL 1989, c. 772, §4 (AMD). PL 1991, c. 548, §D5 (AMD). PL 1991, c. 838, §15 (AMD). PL 1997, c. 199, §1 (AMD). PL 2001, c. 40, §1 (AMD). PL 2007, c. 699, §24 (REV). PL 2017, c. 104, §5 (AMD).

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