

# **SUBDIVISION ORDINANCE OF THE TOWN OF FRANKLIN, MAINE**

## **SECTION I: GENERAL PROVISIONS**

### **SUB-SECTION A: PURPOSE**

The purpose of this ordinance shall be to assure the comfort, health, safety, and general welfare of the people, to protect the environment, maintain community character, and to provide for the orderly growth and development of a sound and stable community. This ordinance also has the purpose of providing uniform procedures and standards for observance by the Planning Board, other municipal officers, and developers in regulating subdivisions in the Town of Franklin.

### **SUB-SECTION B: AUTHORITY**

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30A, MRSA, Section 4404.

### **SUB-SECTION C: TITLE**

This ordinance shall be known and cited as the “Subdivision Ordinance of the Town of Franklin, Maine.

### **SUB-SECTION D: ADMINISTRATION**

The Planning Board of the Town of Franklin shall administer this ordinance.

### **SUB-SECTION E: EFFECTIVE DATE**

This ordinance becomes effective upon its adoption by town meeting.

### **SUB-SECTION F: FILING**

A certified copy of this ordinance shall be filed with the Registry of Deeds, according to the requirements of state law.

### **SUB-SECTION G: APPLICABILITY**

The provisions of this ordinance shall apply to all of the land area of all proposed subdivisions, as defined herein, located within the municipal boundaries of the Town of Franklin, Maine.

### **SUB-SECTION H: EXEMPTIONS**

Subdivisions for which application has been received and reviewed by the Planning Board at a regular or special meeting of the Board prior to the effective date of this ordinance are exempt from the provisions of this ordinance. However, expansions or substantive changes in subdivisions for which application has been received and reviewed prior to the effective date of this ordinance shall be required to comply with the provisions of this ordinance.

### **SUB-SECTION I: VALIDITY**

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall 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.

**SUB-SECTION J: CONFLICT WITH OTHER ORDINANCES**

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Where the provisions of this ordinance impose a higher standard for the promotion and protection of health and safety, the provisions of this ordinance shall prevail.

**SUB-SECTION K: CONFORMANCE WITH OTHER APPLICABLE LAWS AND REGULATIONS**

The proposed subdivision shall be in conformance with all applicable local, state, and federal ordinances, statutes, laws and regulations.

**SUB-SECTION L: SITE LOCATION OF DEVELOPMENT ACT APPROVAL REQUIRED**

If the proposed subdivision requires approval pursuant to the Site Location of Development Act (Title 38, MRSA), the following provisions shall apply:

1. EVIDENCE OF APPROVAL REQUIRED: If the Planning Board determines that the proposed subdivision requires review and approval under the Site Location of Development Act (Title 38, MRSA, Sections 481-490), it shall require that evidence of such approval be submitted, prior to any action by the Planning Board on the proposed subdivision.
2. EVIDENCE OF EXEMPTION REQUIRED: If the Planning Board is in doubt as to whether or not the proposed subdivision requires review and approval under the Site Location of Development Act (Title 38, MRSA, Sections 481-490), it shall require that evidence of exemption from the requirements of said Act be submitted, prior to any action by the Planning Board on the proposed subdivision.
3. SITE LOCATION APPROVAL DOES NOT GUARANTEE LOCAL APPROVAL: Department of Environmental Protection approval under the Site Location of Development Act (Title 38, MRSA, Sections 481-490), does not guarantee Planning Board approval.

**SUB-SECTION M: BURDEN OF PROOF**

In all instances, the burden of proof shall be upon the applicant proposing the subdivision.

**SECTION II: PROCEDURES FOR PRELIMINARY SUBDIVISION PLAN REVIEW**

**SUB-SECTION A: PRE-APPLICATION MEETING AND SUBMISSION OF A SKETCH PLAN**

The following provisions apply to Pre-application Meetings and the submission of sketch plans:

1. **PRE-APPLICATION MEETING WITH PLANNING BOARD:** Prior to submitting an application for subdivision approval and the Preliminary Plan, the applicant or his authorized agent should appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.
2. **SUBMISSION OF SKETCH PLAN:** The applicant shall present to the Board, for informal review and comment, a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a free-hand penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features that may be of assistance to the Board in making its determinations.
3. **NO BINDING COMMITMENTS MADE DURING PRE-APPLICATION MEETING:** No binding commitments shall be made between the applicant and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable. The pre-application meeting does not constitute a formal filing of application.

**SUB-SECTION B: SITE INSPECTION**

1. **SITE VISIT RECOMMENDED:** In order for the Planning Board to be more fully informed about the site, the applicant should consider arranging an inspection of the site with the Planning Board, or an individual appointed by the chairman to act as the Board's representative for the inspection. Such on-site inspection should be conducted at or shortly after the time of submission of the sketch plan. The site visit is discretionary. However, the Planning Board reserves the right to make a site visit mandatory.
2. **TEMPORARY MARKERS:** Temporary markers may be required by the Planning Board to readily locate proposed lots and appraise basic lot layout during the site visit.

**SUB-SECTION C: SUBMISSION OF PRELIMINARY PLAN**

Specific requirements will vary according to the size and complexity of the subdivision proposal. In some instances, the Planning Board may waive the requirement for the submission of a Preliminary Plan, in which case the application

form for a Preliminary Plan must be submitted with the Final Plan.

1. **PRELIMINARY PLAN SIZE AND SCALE:** The Preliminary Plan shall be not less than 8½” by 11”, and shall be drawn to a scale of not greater than 1” equals 100’ nor less than 1” equals 400’, with contour intervals as specified by the Board.
  
2. **INFORMATION TO BE SHOWN ON PRELIMINARY PLAN:** The following information shall be shown on the Preliminary Plan:
  - a. Proposed name of the subdivision.
  - b. Name of the owner of record.
  - c. Date, north arrow, and graphic map scale.
  - d. Boundary survey of tract to be subdivided, certified by a registered land surveyor, tied to established reference points.
  - e. Total acreage of parcel being subdivided.
  - f. Names of property owners abutting parcel to be subdivided, and property owners on opposite side of any road from the parcel to be subdivided.
  - g. Proposed lot lines with approximate dimensions, lot size, and suggested locations of buildings, common sewage disposal systems, and common wells.
  - h. Contour lines at an interval specified by the Board, referred to U.S. Coastal and Geodetic Survey bench marks if such exist within 500 feet of the subdivision. (Check with Planning Board for required contour intervals.)
  - i. Location and size of existing buildings, watercourses, and other essential existing physical features.
  - j. Location and size of any existing sewers, water mains, culverts, and drains.
  - k. Locations, names, and widths of existing and proposed-streets, highways, easements, building lines, parks and open spaces.
  - l. Location of any parcels to be dedicated to public use and the location of all natural features or site elements to be preserved, if any.
  - m. The location of the soil test pits on each lot.
  - n. The location of any farmland within the lot(s) to be subdivided.

Note: Farmland is defined in Section X, consistent with PL 2009, c. 356.

3. **REQUIRED NUMBER OF COPIES:** At least 3 copies shall be provided to the Planning Board.

**SUB-SECTION D: SUBMISSION OF A PRELIMINARY PLAN APPLICATION**

The following information shall be submitted with the preliminary plan on

application forms supplied by the Planning Board:

1. INFORMATION REGARDING THE APPLICANT: The following information regarding the applicant shall be submitted:
  - a. Name of the owner of record.
  - b. Name of the applicant (if other than owner).
  - c. If applicant is a corporation, evidence that the corporation is licensed to do business in Maine and a copy of a Secretary of State's Certificate of Good Standing.
  - d. Name of applicant's authorized representative.
  - e. Name, address, and registration number(s) of the registered professional engineers, land surveyors, and/or land planners employed by the applicant, for the subdivision.
  - f. Address and phone number of the individual to whom all communications from the Planning Board should be directed.
  - g. The applicant's right, title, option, purchase contract, record ownership, or interest in the parcel to be subdivided.
  - h. The applicant's interest in any property abutting the parcel to be subdivided.
  - i. Evidence that the preliminary plan covers the entire, contiguous holdings of the applicant.
  
2. INFORMATION REGARDING PARCEL PROPOSED TO BE SUBDIVIDED: The following information regarding the parcel proposed to be subdivided shall be submitted:
  - a. Location of property: Book and page numbers from Registry of Deeds.
  - b. Location of property: Tax map and lot numbers from Tax Assessor's Office.
  - c. Present zoning of property.
  - d. Acreage of parcel to be subdivided.
  - e. Names of property owners abutting parcel to be subdivided, and property owners on opposite side of any road from the parcel to be subdivided.
  
3. INFORMATION REGARDING SUBDIVISION PROPOSAL: The following information regarding the subdivision proposal shall be submitted:
  - a. Proposed name of subdivision.
  - b. Number of lots.
  
4. EXHIBITS TO BE ATTACHED TO PRELIMINARY PLAN

APPLICATION: The following information should be attached to the preliminary plan application:

- a. Location map.
  - b. A soils report and/or log, identifying soil types and location of soil test areas (there shall be at least one soil test pit per proposed lot).
  - c. Typical cross-section of proposed grading for roadways, sidewalks, and storm drainage facilities.
  - d. A soil erosion and sedimentation control plan.
  - e. Necessary state and Federal permits not requiring local approval.
  - f. Other information as specified by the Planning Board. (Check with Planning Board and attach to application if required.)
5. ISSUANCE OF DATED RECEIPT: Upon receipt of the preliminary plan, the application and required attachments, the Planning Board shall issue the applicant a dated receipt.

**SUB-SECTION E: PLANNING BOARD ACTION ON THE PRELIMINARY PLAN**

Within 30 days of the date of issuance of the receipt, the Planning Board shall review the preliminary plan and shall notify the applicant in writing either that:

- 1. NOTIFICATION: APPLICATION IS COMPLETE: With the exception of the submission of a final plan, the application is a complete application; or
- 2. NOTIFICATION: ADDITIONAL INFORMATION IS REQUIRED: In addition to the submission of a final plan, there are a number of specific additional materials that must be submitted to make a complete application. The Planning Board shall list the specific additional items that must be submitted in order to make the application complete except for the final plan; and/or
- 3. NOTIFICATION: DEFICIENCIES IN PRELIMINARY PLAN TO BE CORRECTED: The Planning Board has determined that there are a number of apparent deficiencies with the proposal that should be corrected before submission of the final plan. The Planning Board shall indicate in writing the nature of these deficiencies. Submission of the final plan without correcting these deficiencies shall be grounds for disapproval of the application for subdivision approval.

**SUB-SECTION F: PLANNING BOARD RECORD OF ACTION ON PRELIMINARY**

**PLAN**

The Planning Board shall maintain a permanent record of their action concerning the preliminary plan.

**SECTION III: PROCEDURES FOR FINAL SUBDIVISION PLAN REVIEW**

**SUB-SECTION A: MAJOR REVISIONS TO THE PRELIMINARY PLAN MAY REQUIRE RESUBMISSION**

If the final plan represents a major deviation from that which was shown on the preliminary plan a resubmission of the preliminary plan will be required. Major deviations include, but are not limited to:

- a. An increase in the number of lots or units;
- b. An increase in the amount of sewage or storm water generated;
- c. An increase in traffic;
- d. Any adverse environmental impact; or
- e. Any changes which in the opinion of the Planning Board constitutes a substantive change in character, or design, of the preliminary plan which may result in a negative public or environmental impact.

**SUB-SECTION B: COMPLETE APPLICATION**

Applications for subdivision approval will not be considered complete until a final plan, based on a survey, has been submitted to the Planning Board.

**SUB-SECTION C: SUBMISSION OF A FINAL PLAN**

- 1. **FINAL PLAN DUE WITHIN 6 MONTHS OF PRELIMINARY PLAN APPROVAL:** Within 6 months of the date of Planning Board action on the preliminary plan, the applicant shall submit the final plan to the Planning Board. Failure to submit the final plan within the designated time period shall require the submission of a new subdivision application.
- 2. **REQUIRED FEE:** The applicant shall submit, with the final plan, a check of \$250.00 plus an additional \$25.00 per lot created by the subdivision. In the case of a cluster development, a check of \$250.00 plus \$25.00 per residential dwelling unit shall be submitted. The check shall be payable to the Franklin Planning Board.
- 3. **NUMBER OF COPIES REQUIRED:** The final plan shall consist of two (2) reproducible copies and three (3) copies of one or more maps or drawings similar to the maps or drawings prepared for preliminary plan submission.
- 4. **INFORMATION REQUIRED ON FINAL PLAN:** In addition to all of the items required on the preliminary plan, unless otherwise indicated by the Planning Board, the following items shall be

required on the final plan:

- a. The name, registration number, and seal of the registered land surveyor who prepared the final plan.
- b. The lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, tangent distances and bearings.
- c. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the applicant.
- d. The location, bearing, and length of every line, with all lots to be numbered in accordance with local practices.
- e. The location of permanent markers set at all lot corners, as shown on the plan.
- f. Signature block to record the approval of the final plan similar to the following example:

This plan has been approved with conditions by the Franklin Planning Board in accordance with Title 30A, MRSA, Section 4404, et seq. Approved units may be sold or leased only in accordance with any terms and conditions attached to the Subdivision Permit which is recorded in the Hancock County Registry of Deeds in Book\_\_\_\_\_ on Page\_\_\_\_\_.

Signed \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date \_\_\_\_\_

**SUB-SECTION D: NOTIFICATION OF COMPLETED SUBDIVISION APPLICATION**

After the Planning Board has received the final plan and all information required to be submitted with it, the Planning Board shall notify the applicant in writing that a completed application has been filed, and shall begin its evaluation.

**SUB-SECTION E: PUBLIC HEARING**

- 1. PUBLIC HEARING SHALL BE MANDATORY: The Planning Board shall hold such hearing within thirty (30) days of having received a completed subdivision application.
- 2. NOTIFICATION: The Planning Board shall cause notice of the date, time, and place of such hearing to be given, by regular mail, to the applicant and all abutting property owners, within 500 feet, of the proposed subdivision.
- 3. PUBLIC NOTICE: The Planning Board shall cause public notice



of the date, time, and place of the public hearing for the proposed subdivision to be published at least two (2) times in a newspaper of general circulation in the Franklin area. The date of the first publication shall be at least seven (7) days prior to the hearing.

#### **SUB-SECTION F: PLANNING BOARD DECISION ON FINAL PLAN**

1. REVIEW CRITERIA: The Planning Board shall consider the following criteria and, before granting approval, must determine that:

A. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it 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.

- 5). The applicable state health and water resource rules and regulations.

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

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

D. Erosion. 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. Traffic. 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 Title 23, section 754, the Department of

Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any other rules adopted under that section.

F. Sewage disposal. 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. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if municipal services are to be utilized.

H. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse affect 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 municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the Shoreland.

I. Conformity with local ordinances and plans. 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. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section.

K. Surface waters; outstanding river sediments. 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 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 must require principal structures to have a combined lot shore frontage and setback from 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 lotted, the proposed

subdivision shall be viewed as if lot lines extended to the shore.

b). The frontage and setback provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under Shoreland zoning, 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 section 4401, subsection 1, on September 23, 1983.

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

M. Flooded areas. 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. Freshwater wetlands. 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. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For the purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.

P. Storm water. The proposed subdivision will provide for adequate storm water management.

Q. Spaghetti-lots prohibited. 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 Title 38, section 480-B, none of the lots created within the subdivision

have a lot depth to shore frontage ratio greater than 5 to 1.

R. Lake phosphorus concentration. 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.

S. Impact on adjoining municipality. 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.

T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 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 Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or may accept a determination provided by a forester licensed pursuant to Title 32, chapter 76.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6, and "parcel" means a contiguous area within the Town of Franklin, owned by one person or a group of persons, in common or joint ownership. This section takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

2. **PLANNING-BOARD DECISION:** The Planning Board shall, within 30 days of a public hearing, or within 60 days of having received a completed application if no hearing is held or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the provisions of this ordinance and the criteria for approval contained in 30-A MRSA section 4404, and to preserve the public's health, safety, and general welfare.

3. **WRITTEN FINDING OF FACTS REQUIRED:** In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed subdivision does or does not meet the provisions of this ordinance and 30-A MRSA section 4404
4. **PLANNING BOARD SIGNING OF FINAL PLAN:** Upon approval of the final plan, a majority of the Board shall sign all five copies. One reproducible copy shall be filed with the Registrar of Deeds. One reproducible copy and one paper copy shall be filed with the Planning Board. One copy shall be retained by the applicant, and one copy shall be filed with the Board of Assessors.

**SUB-SECTION G: PLANNING BOARD RECORD OF ACTION ON FINAL PLAN**

The Planning Board shall maintain a permanent record of their action concerning the final plan.

**SUB-SECTION H: FILING BY APPROVED FINAL PLAN**

Upon approval and signing of the final plan by a majority of Planning Board the original and a copy of the subdivision permit, including all conditions of approval shall be filed by the applicant with the Hancock County Registry of Deeds. One copy of the final plan and subdivision permit shall be stamped and dated by the Registry of Deeds and returned by the applicant to the Planning Board within 90 days of approval.

**SUB-SECTION I: PLAN REVISIONS AFTER APPROVAL SHALL BE RE-SUBMITTED**

1. **REVISIONS TO APPROVED FINAL PLANS REQUIRE PRIOR APPROVAL:** No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted and the Planning Board approves such modifications.
2. **PLAN TO BE VOIDED IF CHANGED WITHOUT PRIOR REVIEW AND APPROVAL** In the event that the final plan is recorded without complying with paragraph 1, above, the plan shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

**SUB-SECTION J: TRANSFER OF APPROVAL**

If the transfer in ownership of an approved subdivision involving public improvements or private road construction is anticipated prior to the successful completion of such improvements, the owner shall notify the Planning Board. The new owner shall submit a subdivision plan amendment for Board review and action.

**SUB-SECTION K: OFF-SITE IMPROVEMENTS**

Should the Planning Board find, after consultation with the appropriate municipal official(s) that a proposed subdivision will place unreasonable demands upon public facilities, the Board may require the applicant to participate in upgrading the public facilities impacted as a condition of approval.

**SUB-SECTION L: ACCEPTANCE OF PUBLIC IMPROVEMENTS**

The approval by the Board of the final subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Franklin of any road, street, easement or other open space shown on such plan.

**SECTION IV: GENERAL REQUIREMENTS**

**SUB-SECTION A: CONSTRUCTION PRIOR TO APPROVAL PROHIBITED**

No utility installations, no ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings for a subdivision shall be done on any part of the subdivision pending before the Planning Board until a final plan of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by this ordinance, nor until an attested copy of the final plat plan so approved and endorsed has been recorded by the applicant in the Registry of Deeds.

**SUB-SECTION B: IMPACT ON COMMUNITY SERVICES AND FACILITIES**

Proposed subdivisions shall be reviewed by the Planning Board with respect to its effect upon existing community services and facilities.

**SUB-SECTION C: LAND NOT SUITABLE FOR DEVELOPMENT**

The Planning Board shall not approve such portions of any proposed subdivision as individual lots or for building purposes that are located on land below sea level, within the 100 year frequency flood plan, or on wetland which must be filled or drained or on land created by diverting a watercourse. In no instance shall the Board approve any part of a subdivision located on filled tidal land or filled or drained Great Ponds.

**SUB-SECTION D: OPEN SPACE PROVISIONS**

LANDSCAPE PLAN MAY BE REQUIRED: The Planning Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (24” or more in diameter), the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally desirable areas.

**SUB-SECTION E: LOTS AND DENSITY**

1. LOTS TO COMPLY WITH PROVISIONS OF ZONING ORDINANCE: The lot size, width, depth, shape, orientation and the minimum setback lines shall comply with the provisions of

the Franklin Zoning Ordinance.

2. **LOTS TO COMPLY WITH PROVISIONS OF STATE PLUMBING CODE:** Where individual, on-site sewage disposal systems are to be utilized, the size of each lot shall be based on soil characteristics, and shall conform to the Minimum Lot Size Guide contained in the current edition of the State of Maine Plumbing Code, however, such lots shall not be less than the lot size required by the Franklin Zoning Ordinance.
3. **LOT DESIGN STANDARDS:** The following standards shall apply to the location layout and design of all subdivision lots:
  - a. The lot size, width, depth, shape, orientation, and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
  - b. Whenever possible, side lot lines shall be perpendicular to the street.
4. **CLUSTER DEVELOPMENT:** For cluster developments, overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots. Such density shall be calculated by dividing the total acreage within the subdivision (including open spaces or common recreational areas) by the number of proposed units.

#### **SUB-SECTION F: LOT ACCESS**

Every lot shall have access to it that is sufficient to afford a reasonable means of ingress and egress for emergency vehicles as well as for all those likely to need or desire access to the property in its intended use.

#### **SUB-SECTION G: BUFFER STRIPS**

The Planning Board may require a buffer strip, such as natural vegetation, when the proposed subdivision will be located adjacent to a use where separation is desirable.

#### **SUB-SECTION H: SURFACE WATER DRAINAGE**

1. **ADEQUATE SURFACE WATER DRAINAGE REQUIRED:** Adequate drainage shall be provided so as to reduce the danger of flooding and erosion.
2. **SURFACE WATER DRAINAGE PLAN:** The applicant may be required to provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision will not create erosion, drainage or runoff problems either in the

subdivision, or in adjacent properties. The applicant may also be required to provide a surface drainage plan to control the ten year storm event showing ditching, culverts, easements, and other proposed improvements for the conveyance, control, or disposal of surface waters.

**SUB-SECTION I: BASEMENT DRAINAGE**

If lots are being created to accommodate structures with basements, the subdivider shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed, or that the water table is below the level of the basement. Principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least on foot above the 100-year flood elevation.

**SUB-SECTION J: EASEMENTS**

The Planning Board may require easements for sewage, drainage, or other utilities.

**SUB-SECTION K: NO MORE THAN ONE PRINCIPAL DWELLING PER LOT PERMITTED**

No more than one principal dwelling, designed for single family occupancy together with the usual and necessary accessory buildings, shall be erected per lot.

**SUB-SECTION L: FURTHER SUBDIVISION REQUIRES PRIOR APPROVAL**

No lot in an approved subdivision may be further subdivided except with the review and approval of the Planning Board.

**SUB-SECTION M COMMERCIAL LOTS REQUIRE A CONDITIONAL USE PERMIT**

The following commercial uses may be allowed only upon the review and authorization of a conditional use permit by the Planning Board:

1. Home occupations of a non-hazardous, non-pollutant nature; and
2. Commercial businesses of a non-hazardous, non-pollutant nature.

**SUB-SECTION N: TEMPORARY DWELLINGS**

Temporary dwellings shall not be permitted to exist on any lot for more than 60 days. Extensions of time may be granted by the Planning Board upon demonstration of reasonable cause.

**SECTION V: SUBDIVISION ROAD DESIGN AND CONSTRUCTION**

**SUB-SECTION A: ROADS TO BE SPECIFIED AS EITHER PUBLIC OR PRIVATE**

All proposed subdivision roads shall be specified on the plan as either private or public roads.



## **SUB-SECTION B: ROADS TO BE ACCESSIBLE FOR PUBLIC SAFETY EQUIPMENT**

Proposed subdivision roads shall be designed and constructed so that they are sufficient to afford a reasonable means of ingress and egress for public safety equipment and emergency vehicles.

### **1. ROAD WIDTH**

The minimum road surface width, of the travel way and the surface of both shoulders, level with the travel way, shall be twenty (20) feet.

### **2. TURN AROUNDS**

Any dead end road longer than 400 feet must have one of the following types of turn arounds:

- a. Circular turn arounds with a travel surface of at least 100 feet in diameter.
- b. Right angle turn arounds shall be a minimum of 40 feet deep (from the edge of the travel way on the adjacent shoulder), a minimum of 20 feet wide at the rear, and a minimum of 30 feet wide at the mouth.
- c. Any road more than ½ mile in length shall have a minimum of one of the above turn arounds, and one for every additional ½ mile or portion thereof, every other alternative must be approved by the Planning Board.

### **3. MINIMUM RIGHT OF WAY**

The minimum right of way for all subdivision roads shall be (fifty) 50 feet.

## **SECTION VI: REQUIRED IMPROVEMENTS**

### **SUB-SECTION A: STORM WATER DRAINAGE**

The subdivider may be required to construct storm water drainage facilities. All such facilities are to be of adequate design to hydraulically accommodate the ten year storm event using techniques as stated in the Sod Conservation Service Engineering Field Manual. Storm drainage facilities shall be so designed as to present no hazard to life or property.

### **SUB-SECTION B: PRIVATE SANITARY SEWAGE**

The subdivider shall construct private sanitary sewers in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision unless it has been agreed with the Planning Board that such lots will be served with private disposal systems. The size, type, and installation of all sanitary sewers shall be in accordance with plan and standard specifications approved by the appropriate

municipal official.

### **SUB-SECTION C WATER SUPPLY FACILITIES**

The subdivider shall construct water mains in such manner as to make adequate water service available to each lot within the subdivision unless it has been agreed with the Planning Board that such lots will be served by privately owned supply systems. The size, type and installation of all water mains shall be in accordance with plans and standard specifications as approved.

## **SECTION VII: PERFORMANCE GUARANTEE**

### **SUB-SECTION A: CONDITIONAL AGREEMENT**

The Planning Board may, at its discretion, recommend a properly executed conditional agreement with the board. Such agreement, if executed, shall be a condition of approval and shall provide that the Planning Board may approve the final plan or any part thereof, on the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lot in the subdivision until it shall have been certified in the manner set forth in Sub-Section B below that all improvements have been made within 2 years of the date of executing such conditional agreement.

### **SUB-SECTION B: INSPECTION OF IMPROVEMENTS REQUIRED**

Before an applicant is released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the Code Enforcement Officer that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal, and local codes, ordinances, laws, and regulations).

## **SECTION VIII: AMENDMENTS AND WAIVERS**

### **SUB-SECTION A: AMENDMENTS**

The following provisions shall govern amendments to this ordinance:

1. **ALL PROPOSED AMENDMENTS TO BE REVIEWED BY PLANNING BOARD:** All proposed amendments to this ordinance shall be reviewed and voted on by the Planning Board.
2. **SELECTMEN SHALL PLACE AMENDMENT ON WARRANT:** The selectmen shall upon the receipt of a proposed amendment supported by a 2/3rds vote of the Planning Board or in the event that 2/3rds of the Planning Board does not support the proposed amendment, a petition signed by 20% of the voters voting in the last gubernatorial election shall cause an article to be placed in the warrant of the next regular or special town

meeting.

3. **MAJORITY VOTE REQUIRED FOR AMENDMENTS SUPPORTED BY PLANNING BOARD:**  
A simple majority of the voters voting is required to enact amendments supported by 2/3rds of the Planning Board.
4. **2/3RDS VOTE REQUIRED FOR AMENDMENTS SUBMITTED BY PETITION:** Articles submitted by petition but not supported by 2/3rds of the Planning Board require a favorable vote by 2/3rds of the voters present and voting for enactment.

#### **SUB-SECTION B: WAIVERS**

The following provisions shall govern Planning Board waivers to the provisions of this ordinance:

1. **WAIVERS PERMITTED:** Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with the provisions of this ordinance, or where there are special circumstances of a particular plan, it may waive any of the provisions of this ordinance provided that such waiver will not have the effect of nullifying the purpose of this ordinance, the Comprehensive Plan, the Zoning Ordinance, or any other ordinance.
2. **CONDITIONS ATTACHED TO WAIVERS:** In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the provisions so waived.

### **SECTION IX: VIOLATIONS ENFORCEMENT, PENALTIES, AND APPEALS**

#### **SUB-SECTION A: VIOLATIONS**

The following provisions define actions and activities that are considered violations of this ordinance:

1. **PRIOR OFFERINGS, SALES, LEASES, OR DEVELOPMENT PROHIBITED:** Any person, firm, corporation, or other legal entity 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 which has not been approved by the Planning Board is in violation of this ordinance.

2. **CONVEYANCE WITHOUT A PERMANENT MARKER PROHIBITED:** Any person, firm, corporation, or other legal entity who sells or conveys any land in an approved subdivision without at least one permanent marker set at one lot corner of the lot sold or conveyed is in violation of this ordinance. The term “permanent marker” includes but is not limited to the following:  
A granite monument, a concrete monument, an iron pin or a drill hole in ledge.

**SUB-SECTION B: ENFORCEMENT**

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance.

**SUB-SECTION C: PENALTIES**

Any person who violates any provision of this ordinance shall be fined a minimum of \$100.00 and a maximum of \$2,500.00 for each violation.

**SUB-SECTION D: APPEALS**

The following provisions shall govern appeals from the decisions, actions, or inaction of the Planning Board and Board of Appeals under this ordinance:

1. **APPEALS TO BOARD OF APPEALS:** An appeal may be taken, within 30 days from a decision, action, or inaction of the Planning Board or Code Enforcement Officer, by any party to the Board of Appeals.
2. **APPEALS TO SUPERIOR COURT:** An appeal may be taken, within 30 days from a Board of Appeals decision, action, or inaction, by any party to Superior Court in accordance with Rule 808 of the Rules and Civil Procedure.

**SECTION X DEFINITIONS**

**FARMLAND:** A parcel of five (5) or more acres of land that is (1) classified as prime farmland, unique farmland, or farmland of statewide or local importance by the Natural Resources Conservation Service of the U.S. Department of Agriculture, or (2) used for the production of agricultural products.

**SUBDIVISION:** A subdivision shall mean the division of a tract or parcel of land as defined in Title 30A. MRSA, Section 4404.