

Subdivision Ordinance of the Town of Weston

Adopted October 10, 2019

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Subdivision Ordinance.

1. Title.

This Ordinance shall be known and may be cited as "*Subdivision Ordinance of the Town of Weston.*"

2. Authority.

This Ordinance has been adopted in accordance with the provisions of Article VIII-A of the Maine Constitution; the provisions of MRSA Title 30-A, Sections 3001 (Home Rule) and 4401 et seq. (Subdivisions); and the State's Growth Management Law MRSA Title 30-A, Section 4311 et seq.; as may be amended.

3. Applicability.

The provisions of this Ordinance shall govern all land, buildings, and structures within the boundaries of the Town of Weston.

4. Repeal of Prior Ordinances.

All prior subdivision ordinances and regulations are repealed as of the effective date of this Ordinance.

5. Effective Date.

This Ordinance shall take effect and be in force from the date of its adoption by the Town's legislative body.

6. Conflict with Other Laws.

Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule, regulation, ordinance, or resolution, the most restrictive or that imposing the higher standards shall govern.

7. Severability.

Should any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Ordinance, as a whole or any part thereof, other than the part so declared to be unconstitutional or invalid.

8. Availability.

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public during normal business hours. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

9. Administration and Enforcement.

This Ordinance shall be administered by the Planning Board or the Code Enforcement Officer, as indicated within, and shall be enforced by the Code Enforcement Officer.

10. Applicability of Subdivision Review.

A. Subdivision review, in conformity with the procedures, criteria, and standards of this ordinance, shall be required for all development that meets the definition of "*Subdivision*" as defined, herein.

B. Subdivision review does not apply to:

1. Any subdivisions approved before September 23, 1971 in accordance with laws then in effect;
2. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;

3. A subdivision, a plan of which had been legally recorded in the Aroostook County Registry of Deeds, before September 23, 1971; or
4. Airports, if the airport has an airport layout plan that has received final approval from the airport sponsor, the MaineDOT, and the FAA.

11. Procedures for Subdivision Review.

- A. Introduction. Every applicant for subdivision approval shall obtain and submit a written application to the CEO. The Planning Board shall review all requests for subdivision approval. On all matters concerning subdivision review the Planning Board shall maintain a permanent record of all its meetings, proceedings, and correspondences.
- B. Agendas. 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 cause a written agenda for each meeting to be prepared and distributed. Applicants shall request to be placed on the Planning Board's first open agenda by contacting the CEO. Applicants who attend a meeting, but who are not on the Planning Board's agenda, may be heard, but, only after all agenda items have been completed, and then only if a majority of the Planning Board so votes. The Planning Board shall take no action on any application not appearing on the Planning Board's written agenda.
- C. Joint Meetings. If any portion of a subdivision crosses municipal boundaries, the Planning Board from each of the adjoining municipalities shall meet jointly to discuss the application. The Planning boards can waive in writing the requirement for a joint meeting or hearing. However, when a subdivision crosses the municipal boundaries each Planning Board shall consider the impacts on traffic.
- D. Resubdivision. The further division of a lot within a subdivision, as defined herein, existing after September 23, 1971, or the change of a lot size therein, or the relocation of any road or lot line within an approved subdivision shall require the written approval of the Planning Board. Such resubdivision activity shall comply with all provisions of this Ordinance.
- E. Review Procedure. This Ordinance shall provide for a multi-stage application review procedure consisting of three (3) stages:
 - a. Pre-application and sketch plan,
 - b. Preliminary plan, and
 - c. Final plan.

12. Pre-Application Meeting, On-Site Inspection, and Subdivision Sketch Plan Procedures.

- A. Purpose. The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Planning Board and receive the Planning Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.
- B. Procedure.
 1. Application: All applications for sketch plan review of a subdivision shall be obtained from and submitted to the CEO.
 2. Sketch Plan: The sketch plan shall show, in simple sketch form, the proposed layout of roads, lots, buildings, and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It shall be most helpful to both the applicant and the Planning Board for site conditions such as steep slopes, wet areas, and vegetative cover to be identified in a general manner. The sketch plan shall be accompanied by:
 - a. A copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten (10) acres in size; and
 - b. A copy of that portion of the soil survey covering the subdivision, showing the outline of the proposed subdivision.

3. Inspection: Within thirty (30) days of the pre-application meeting, the Planning Board may hold an on-site inspection of the property. The applicant shall place “flagging” at the centerline of any proposed roads, and at the approximate intersections of the road centerlines and lot corners, prior to the on-site inspection. Lot line flags shall be different colors from the centerline flags. The Planning Board reserves the right to postpone the on-site inspection if the Planning Board determines that the on-site inspection is not possible due to surface conditions of the site, such as, but not be limited to, snow cover, flooding rains, and frozen ground.
 4. Presentation: The applicant shall present the sketch plan and make a verbal presentation regarding the proposed subdivision at the first scheduled Planning Board meeting when time is available. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the preliminary plan application.
 5. Contour Interval: At the pre-application meeting, or when the applicant decides to proceed to the next stage of subdivision review, the Planning Board shall inform the applicant in writing of the required contour interval on the preliminary plan. Contour lines shall be drawn at 2' intervals, unless indicated otherwise by the Planning Board.
- C. Rights Not Vested. The pre-application meeting, the submittal for review of the sketch plan, or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, MRSA, §302.
- D. Establishment of File. Following the pre-application meeting, the CEO shall establish a file of the proposed subdivision for use by the Planning Board and the CEO. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.
- E. Waiver of Application Requirements. Where the Planning Board finds that extraordinary and unnecessary hardships may result from the strict compliance with this Ordinance, or where there are special circumstances of a particular plan, the Planning Board may waive, in writing, any of the application requirements, non-statutory criteria/performance standards, or general requirements---provided that such waiver shall not have the effect of nullifying the purpose of this Ordinance, the land use plan, the Shoreland Zoning Ordinance, or any other federal, state, and local rule, law, ordinance, or regulation. Any such waiver shall be duly noted on the Final Recording Plan. In granting any waiver, the Planning Board shall require such conditions as shall, in its judgment, secure substantially the objectives of the requirements so waived.

13. Preliminary Subdivision Plan Procedure and Requirements.

A. Preliminary Subdivision Plan Procedure.

1. Within six (6) months after the pre-application sketch plan meeting with the Planning Board, the applicant shall submit an application for approval of a preliminary plan at least twenty-one (21) days prior to a scheduled meeting of the Planning Board. Applications shall be submitted to the CEO for review for completeness and passed on to the Planning Board for final determination of completeness. All applications for preliminary plan approval for a subdivision shall be accompanied by an application fee payable by check to the "*Town of Weston*". The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Planning Board. Failure to do so shall require resubmission of a sketch plan to the Planning Board.
2. The Planning Board may require that an expert consultant(s) be hired to assist in its review of an application. The applicant shall pay a reasonable fee necessary for such services but not more than fifty percent (50%) of the cost. The Planning Board shall provide the applicant with notice of its intent to require such a fee, the purpose of the fee, and its approximate amount. The applicant shall be given an opportunity to be heard on the purpose and the amount before the Planning Board. After either being heard or waiving the right, the applicant shall pay the fee or appeal payment of the fee to the Board of Appeals.
3. Irrespective of any other provision of this Ordinance or any other ordinance, the Planning Board shall not accept the application as complete if the applicant fails to pay the fee(s) or appeals the fee(s) determination. If the applicant appeals the payment of the fee(s) to the Board of Appeals, the Board shall decide whether the fee(s) is/are reasonable for the purpose found necessary by the Planning Board. The fee(s) shall be placed in an interest bearing escrow account in the "*Town of Weston's*" name. The money, including accrued interest, remaining in the account and which has not been spent or

- appropriated, shall be returned to the applicant within thirty (30) days after the Planning Board issues its final decision.
4. The applicant, or their duly authorized representative, shall attend the meeting of the Planning Board to present the preliminary plan application.
 5. Within thirty (30) days of receiving the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Planning Board shall cause notification to be made to the applicant in writing of the specific material needed to complete the application.
 6. Upon receiving an application for review, whether the application is complete or not, the Planning Board shall:
 - a. Issue a dated receipt to the applicant.
 - b. Determine whether to hold a public hearing on the preliminary plan application.
 - c. Have the CEO notify by mail: all property owners within 500 feet of the property involved or such other property owners as the Planning Board may deem necessary. The notice shall indicate a subdivision application has been received, include a description of the nature of the applicant's proposal, and the ordinance(s) by which the application is to be reviewed.
 - d. Have the CEO notify the Municipal Clerk and the Chair of the Planning Board of the neighboring municipality(ies) if any portion of the proposed subdivision includes or crosses the municipal boundary.
 7. If the Planning Board decides to hold a public hearing, it shall hold the meeting within thirty (30) days of determining it has received a complete application and shall prepare an agenda. No less than ten (10) days prior to the meeting, the CEO shall notify by mail: all property owners within 500 feet of the property involved and such other property owners as the Planning Board may deem necessary, it shall be the responsibility of the applicant to supply the names and mailing addresses of the property owners within 500' or other identified property owners; the person making application; and Planning Board members. The CEO shall cause notice of the public hearing to be posted in the Town Office and two (2) other conspicuous locations in the area. The notice shall include a description of the nature of the applicant's proposal, the ordinance(s) by which the application is to be reviewed, and the time and place of any meeting or the public comment time period.
 8. Within thirty (30) days from the date of the public hearing or within sixty (60) days of determining a complete application has been received, if no meeting is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Planning Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial.
 9. When granting approval to a preliminary plan, the Planning Board shall state in writing the conditions of such approval, if any, with respect to:
 - a. The specific changes which the Planning Board shall require in the final plan;
 - b. The character and extent of the required improvements for which waivers may have been requested and which the Planning Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - c. The construction items for which cost estimates and performance guarantees shall be required as prerequisite to the approval of the final plan.
 10. Approval of a preliminary plan by the Planning Board shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval to the Planning Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Planning Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

B. Preliminary Subdivision Plan Requirements.

The preliminary plan application shall consist of the following items.

1. Application Form.
2. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Planning Board to locate the subdivision within the Town. The location map shall show:
 - a. Any existing subdivisions in the proximity of the proposed subdivision.
 - b. Locations and names of existing and proposed roads.
 - c. Boundaries and designations of shoreland zoning districts.
 - d. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
3. Five (5) full size sets (no greater than 24" X 36") of the preliminary plan, application, and application materials shall be submitted to the CEO. The maps or drawings may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet (100') to the inch. Plans for subdivisions containing more than one hundred (100) acres can be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. The CEO shall make available to each Planning Board member a set of the preliminary plan(s) and application no less than seven (7) days prior to the meeting for their review and comment.
4. The application for preliminary plan approval shall include the following information. The Planning Board may require additional information to be submitted, where it finds it necessary in order to determine whether the review criteria of Title 30-A MRSA, §4404 are met.
 - a. Proposed name of the subdivision and lot number(s).
 - b. Verification of right, title, or interest in the property.
 - c. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and bearing the seal and signature of the Maine Licensed Professional Surveyor. The corners of the parcel shall be located on the ground and marked by artificial monuments.
 - d. A copy of the most recently recorded deed for the parcel, if applicable. A copy of any and all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - e. A copy of any future covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 - f. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Maine Licensed Site Evaluator or Registered Soil Scientist shall be provided. A map showing the location of all test pits dug on the site, the location of subsurface wastewater disposal systems within 100 feet of the property lines on adjacent parcels, and the locations of the proposed subsurface wastewater disposal systems shall be submitted.
 - g. Indication of the type of water supply system(s) to be used in the subdivision.
 - h. The date the plan was prepared, North point, and graphic map scale.
 - i. The names and addresses of the record owner, applicant, adjoining property owners, and individual or company who prepared the plan.
 - j. A medium intensity soil survey.
 - k. Wetland areas shall be identified, regardless of size.
 - l. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.
 - m. The location of all rivers, streams, and brooks within or directly adjacent to the proposed subdivision.
 - n. Contour lines at the interval specified by the Planning Board, showing elevations in relation to the Mean Sea Level.
 - o. The shoreland zoning district, if applicable, in which the proposed subdivision is located and the location of any shoreland zoning boundaries affecting the subdivision.

- p. The location of existing and proposed culverts and drainage ways on or adjacent to the property to be subdivided.
- q. The location, names, and present widths of existing roads, highways, easements, building lines, parks, and other usable open spaces on or adjacent to the subdivision.
- r. The width and location of any roads, public improvements, or usable open space shown within the subdivision.
- s. The proposed lot lines with approximate dimensions and lot areas.
- t. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- u. The location of any usable open space to be preserved and a description of proposed ownership, improvement, and management or usable open space.
- v. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan, or certification that the subdivision is not located in a flood-prone area.
- w. Identification of sand and gravel aquifers as shown on “*Hydrogeologic Data for Significant Sand and Gravel Aquifers*” maps of the Maine Geological Survey. After Planning Board assessment of the map, the Board may require a hydrogeologic assessment in cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils and where the proposal intends to use a shared or common subsurface waste water disposal system.
- x. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the “*Trip Generation Manual*”, latest edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- y. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife and rare or exemplary features as identified by the Maine Natural Areas Program.
- z. If any portion of the proposed subdivision is in the direct watershed of a Great Pond and qualifies for the simplified review procedure for phosphorus control the plan shall indicate the location and dimensions of vegetative buffer areas or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.

If any portion of the proposed subdivision is in the direct watershed of a Great Pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan.

1. A Phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in “*Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*,” published by the Maine Department of Environmental Protection, latest edition. The Analysis and Control Plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
2. A long-term maintenance plan for all phosphorus control measures.
3. The contour lines shown on the plan shall be at an interval of no less than ten (10) feet.
4. Areas with sustained slopes greater than 25 percent covering more than one acre.

14. Final Subdivision Plan Procedure and Requirements.

A. Final Subdivision Plan Procedure.

1. Within twelve (12) months of the approval of the preliminary plan by the Planning Board, the applicant shall submit the application to the CEO at least twenty-one (21) days prior to a scheduled meeting of the Planning Board. If the application for the final plan is not submitted within twelve (12) months after preliminary plan approval, the Planning Board may require resubmission of the preliminary plan, except as stipulated below. Applications submitted to the CEO shall be reviewed for completeness and passed on to the Planning Board for final determination of completeness. All applications for final plan approval

- for a subdivision that did not pay a preliminary plan fee shall be accompanied by an application fee equal to the preliminary plan fee payable by check to the "*Town of Weston*". The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Planning Board.
2. If an applicant cannot submit the final plan within twelve (12) months, due to delays caused by other regulatory bodies, or for other reasons, the applicant may request an extension from the Planning Board. Such a request for an extension to the filing deadline shall be made, in writing, to the CEO who shall pass the request along to the Planning Board for discussion at their next regularly scheduled meeting prior to the expiration of the filing period. In considering the request for an extension, the Planning Board shall make findings of fact that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that local ordinances or regulations which may impact on the proposed development have not been amended.
 3. Irrespective of any other provision of this Ordinance or any other ordinance, the Planning Board shall not accept the application as complete if the applicant fails to pay any fee(s) or appeals the fee(s) determination. If the applicant appeals the payment of the fee(s) to the Board of Appeals, the Board shall decide whether the fee(s) is/are reasonable for the purpose found necessary by the Planning Board. The fee(s) shall be placed in an interest bearing escrow account in the "*Town of Weston's*" name. The money, including accrued interest, remaining in the account and which has not been spent or appropriated, shall be returned to the applicant within thirty (30) days after the Planning Board issues its final decision.
 4. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
 - a. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Wastewater Discharge License is needed;
 - b. Maine Department of Human Services, if the applicant proposes to provide a public water system;
 - c. Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized; and
 - d. US Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 5. Within thirty (30) days of the receipt of the final plan application, the Planning Board shall determine whether the final plan application is complete and cause the applicant to be notified in writing of its determination. If the application is not complete, the Planning Board through the CEO, shall notify the applicant of the specific material needed to complete the application.
 6. Upon receiving an application for final review, whether the application is complete or not, the Planning Board shall issue a dated receipt to the applicant. The Planning Board shall determine whether to hold a public hearing on the final plan application.
 7. The applicant, or their duly authorized representative, shall attend the meeting of the Planning Board or public hearing to discuss the final plan.
 8. If the Planning Board decides to hold a public hearing, it shall hold the meeting within thirty (30) days of determining it has received a complete application, shall prepare an agenda, and no less than ten (10) days prior to the meeting, the CEO shall notify by mail: all property owners within 500 feet of the property involved and such other property owners as the Planning Board may deem necessary. The Secretary shall also cause notice to be posted in the Town Office and two (2) other conspicuous locations in the area. The notice shall include a description of the nature of the applicant's proposal, the ordinance(s) by which the application is to be reviewed, and the time and place of any meeting or the public comment time period.
 9. The Planning Board may, through the Chair, notify the Town Manager, Town Selectmen, utility providers, policing agency(ies), and Fire Chief of the proposed subdivision, the number of lots/units proposed, the length of roadways, and the size and construction characteristics of any residential, commercial, or industrial buildings. The Planning Board shall request that the notified officials respond in writing upon the adequacy of existing capital facilities to service the proposed subdivision within ten (10) days.
 10. Before the Planning Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements of Section 17, herein, if applicable.
 11. Within thirty (30) days from the public hearing or within sixty (60) days of having determined a complete application was submitted, if no public hearing is held, or within another time limit as may be otherwise

mutually agreed to by the Planning Board and the applicant, the Planning Board shall make findings of fact, and conclusions relative to the review criteria for approval contained in Title 30-A MRSA, §4404 (Statute) and this Ordinance. If the Planning Board finds that all the criteria of the Statute and the criteria, standards, and requirements of this Ordinance have been met, they shall approve the final plan. If the Planning Board finds that any of the criteria of the Statute or criteria, standards, and requirements of this Ordinance have not been met, the Planning Board shall either deny the application, or approve the application with conditions to ensure all criteria, standards, and requirements shall be met by the subdivision. The reasons for any conditions shall be stated in the records of the Planning Board.

B. Final Subdivision Plan Requirements.

1. The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet (100') to the inch. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24" X 36" in size. Space shall be reserved on the plan for endorsement by the Planning Board. Two recording plans on Mylar transparencies and three paper copies of the Mylar transparencies of the recording plan shall be submitted. In addition, seven (7) copies of the plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information, shall be submitted to the CEO and mailed to each Planning Board member no less than seven (7) days prior to the meeting.
2. The final plan shall include all of the required information contained in the above preliminary plan requirements, updated and noted as necessary, and be accompanied by the following information:
 - a. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - b. If different than those submitted with the preliminary plan, the location, names, widths, and geometrics of existing and proposed roads, assess points, highways, easements, buildings, parks, and other usable open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing, and length of road lines, lot lines, and parcel boundary lines shall bear the seal and signature of a Maine Licensed Professional Surveyor.
 - c. An erosion and sedimentation control plan prepared in accordance with the "*Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*", published by the Soil and Water Conservation and the Maine Department of Environmental Protection, latest edition. The Planning Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a Great Pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as driveways, roofs, and parking areas is less than 5 percent of the area of the subdivision.
 - d. If storm drains are not to be utilized, a stormwater management plan, prepared by a Maine Registered Professional Engineer in accordance with "*Stormwater Management for Maine: Best Management Practices*", latest edition, published by the Maine DEP. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Planning Board may waive submission of the stormwater management plan only if the subdivision is not in the direct watershed of a Great Pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as driveways, roofs, and parking areas is less than 5 percent of the area of the subdivision.
 - e. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public ways and usable open spaces shown on the plan, and copies of agreements or other documents showing the manner in which usable open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed roads and/or usable open spaces or other land is to be offered to the Town, written evidence that the Town Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included.

- f. A list of construction items, with cost estimates, that shall be completed by the developer prior to the sale/lease of lots, and evidence that the developer has financial commitments or resources to cover these costs.
- g. A performance bond may be required to secure completion of all public improvements required by the Planning Board, and written evidence that the Town Selectmen are satisfied with the legal sufficiency of the bond.
- h. The final plan shall be accompanied by certification either by a duly authorized Maine Registered Professional Engineer and/or by the Road Commissioner for the roads and utilities; or the district for the water and/or sewer facilities, if provided, as required by the Planning Board, that the design of water and sewer facilities and roads and utilities in the proposed subdivision conform to the requirements of all applicable, federal, state, and local rules, laws, and regulations. The cost of inspection shall be borne by the applicant or sub-divider.
- i. Suitable space to record on the approved plan, the date, and conditions of approval, if any. This space shall be similar to the following example:

Town of Weston

Approved by the Planning Board

Signed: _____ Chair of the Planning Board
 _____ (space for all Planning Board members to sign)

 Date: _____
 Conditions: _____

C. Final Subdivision Approval and Filing.

- 1. A plan may be reviewed by the Planning Board, however, no plan shall be approved by the Planning Board as long as the applicant is in violation of provisions of federal, state, or local laws, rules, ordinance, and regulations.
- 2. Upon findings of fact and determination that all standards in Title 30-A MRSA, §4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Planning Board shall sign the final plan(s). The Planning Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed recording plan on Mylar transparency shall be taken by the applicant to the Aroostook County Registry of Deeds, one copy of the signed final plan on Mylar transparency with file number shall be retained by the Town as part of the permanent record, and one paper copy of the recording plan with file number shall be retained by the Planning Board. Any subdivision not recorded in the Aroostook County Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall become null and void. A copy of the record must be supplied to the CEO.
- 3. At the time the Planning Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the plan. If any official notified of the proposed subdivision informs the Planning Board that their department or district does not have adequate capital facilities to service the subdivision, the Planning Board shall require the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to allow the orderly planning, financing, and provision of public services to the subdivision. If the expansion, addition, or purchase of the needed facilities is included in the Town's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition, or purchase.
- 4. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a waiver from any applicable subdivision standard, that fact must be expressly delineated on the face of the Final Recording Plan(s).

- a. In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded with the Town and the Aroostook County Registry of Deeds. This certificate must:
 1. Indicate the name of the property owner;
 2. Identify the property by reference to the last recorded deed in its chain of title; and
 3. Indicate the fact that a waiver, including any conditions on the waiver, has been granted and the date of granting.
 - b. The waiver is not valid until it is recorded as provided in this paragraph. Recording of the waiver must occur within ninety (90) days of the final subdivision approval or approval under Title 38, where applicable, whichever date is later, or the waiver is null and void.
5. 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 revised final plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the criteria of Title 30-A MRSA, §4404, and the criteria, standards, and requirements of this Ordinance. In the event that a plan is recorded without complying with this requirement, the Town shall provide to the Aroostook County Registry of Deeds an affidavit to be recorded over or attached to the plan. The Planning Board may institute proceedings to have the plan stricken from the records of the Aroostook County Registry of Deeds.
 6. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other usable 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 Town, approval of the plan shall not constitute an acceptance by the Town of such areas. The acceptance of dedicated lands shall be made only by the legislative body of the Town. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Town covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
 7. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within one (1) year of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Aroostook County Registry of Deeds to that effect.

15. General Requirements

1. **Set Back of Houses.** No buildings or part thereof shall be closer than 50 feet from the road right-of-way line and no building or any part thereof shall be closer than 15 feet from any lot line.
2. **Minimum Lot Size.** The lot size shall be at least a 1 acre minimum with a 150-foot frontage on any road or 200' on any shoreline. It is recommended that the average length of each lot not exceed four (4) times the average width of each said lot. No such lot or parcel of land as shown on the approved Final Plan shall be further subdivided.
3. **Roads.** All roads within the subdivision shall have a minimum of fifty (50) feet right-of-way; and shall consist of at least sixteen (16) feet of travel width as well as a minimum two (2) feet wide shoulder on each side of the travel portion.

16. Subdivision Review Criteria.

When reviewing a proposed subdivision, the Planning Board shall review the application for conformance with the specified subdivision review below and shall make findings of fact that each designated criteria has been met prior to the approval of the final plan. The designated subdivision review criteria cannot be waived.

The review criteria contained within this Section shall be utilized in reviewing subdivision applications for approval. The standards are not intended to discourage creativity, invention, or innovation. **The review criteria are statutory and required by Title 30-A, MRSA, Section 4404.**

1. **Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations; [
2. **Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. **Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. **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;
5. **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 rules adopted under that section;
6. **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;
7. **Municipal solid waste disposal.** 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;
8. **Aesthetic, cultural and natural values.** 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 municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
9. **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 municipal reviewing authority may interpret these ordinances and plans;
10. **Financial and technical capacity.** The sub-divider has adequate financial and technical capacity to meet the standards of this section;
11. **Surface waters; outstanding river segments.** 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.
 - A. 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.
 - (1) 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.

(2) 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, 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;

12. **Ground water.** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. **Flood 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 sub-divider 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;
14. **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;
15. **Farmland.** 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;
16. **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 purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
17. **Storm water.** The proposed subdivision will provide for adequate storm water management;
18. **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;
19. **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;
20. **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; and
21. **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 municipal reviewing authority 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. A municipal reviewing authority 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 municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority 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 Title 12, section 8868, subsection 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. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

17. Violation

Any person, firm or corporation being the owner, contractor, violates any of the provisions of this Ordinance shall upon adjudication be fined in accordance with provisions of Title 30-A, MRSA, Section 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the "Town of Weston".

18. Definitions

1. Construction of Language.

The following definitions shall apply to the Subdivision Ordinance *of the Town of Weston*. In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance, their ordinarily accepted meaning, or as defined herein. In the case of any difference of meaning or implication between the text of the Ordinance, illustration, or table, the text shall control.

- A. The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.
- B. The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.
- C. The word "shall" is mandatory, the word "may" is permissive.
- D. The word "lot" includes the words "plot" and "parcel".
- E. The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."
- F. The word "Town" shall mean the Town of Weston, Maine.
- G. The word "CEO" shall mean the Code Enforcement Officer for the Town of Weston.
- H. The term "this Ordinance" shall mean the Land Use Ordinance for the Town of Weston.

2. Definitions

- 1. **Densely developed area.** "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.
- 2. **Dwelling unit.** "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.
- 3. **Freshwater wetland.** "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.
- 4. **Farmland.** "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 Title 7, section 152, subsection 2.
- 5. **Principal structure.** "Principal structure" means any building or structure in which the main use of the premises takes place.

- 6. Subdivision.** "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 sub-divider who has retained one of the lots for the sub-divider's own use as a single-family residence that has been the sub-divider'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 subchapter.
 - 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 subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority 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 must be counted as a lot, except:
 - (1) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.
 - 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 subchapter.
 - 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 subchapter.
 - 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 subchapter.
 - 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 subchapter. 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 subsection. "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 subchapter.
 - 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 subchapter. 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 subsection.
 - 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 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 under paragraphs D-1 to D-6, 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 subchapter.
7. **New structure or structures.** "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.
8. **Tract or parcel of land.** "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.