

SUBDIVISION ORDINANCE
TOWN OF WINIHROP, MAINE

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SUBDIVISION ORDINANCE
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ARTICLE I. PURPOSE

The purpose of this Ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Winthrop, to protect the natural environment, and to promote development of an economically sound community.

ARTICLE II. LEGAL AUTHORITY

This Ordinance is adopted through municipal home rule authority in accordance with the provisions of Title 30, Maine Revised Statutes Annotated, Sections 2151-A, 2153, and 4956.

ARTICLE III. REPEAL OF PRIOR ORDINANCES

The Town of Winthrop Subdivision Guidelines as last amended on October 30, 1978, are hereby repealed and replaced with the Subdivision Ordinance herein.

ARTICLE IV. CONFLICT WITH OTHER ORDINANCES

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or Code of the Town of Winthrop or State of Maine existing on the effective date of this Ordinance, the more restrictive provision shall prevail.

ARTICLE V. VALIDITY AND SEVERABILITY

If any section or provision of this Ordinance is declared invalid by the courts, 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.

ARTICLE VI. ADMINISTRATION & ENFORCEMENT

A. The Planning Board of the Town of Winthrop shall administer this Ordinance. The Planning Board shall meet the second and fourth ~~Monday~~ ^{Wednesday} of each month when applications are pending and schedule other meetings by mutual agreement.

B. The Planning Board strongly advises against construction activities, including timber harvesting, prior to subdivision approval because such activities may present difficulties and additional expenses to the applicant as a result of the erosion control, phosphorus control, and stormwater management requirements in this Ordinance.

C. The Codes Enforcement Office (CEO) shall inspect the project area at any time to ensure compliance with the application, permit, permit conditions, and applicable Town Ordinances. The CEO, upon finding that any of the above have been violated, is herein authorized to issue notices of violations, orders to correct, and schedules for correction. The CEO is further authorized, subject to the approval of the Town Council, to enter into negotiations for administrative consent decrees and agreements, to institute legal proceedings to enjoin violations, and to recover fines and costs.

D. A person who violates an application, permit, permit condition, or Town Ordinance shall be charged with a civil violation and on conviction shall be fined not less than \$100.00 nor more than \$2,500.00. Each day such violation continues shall constitute a separate violation. All fines shall be paid to the Town of Winthrop. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the Town of Winthrop.

E. An appeal from a decision of the Planning Board shall be taken to Superior Court within 30 days pursuant to Rule 80B, Maine Rules of Civil Procedure.

ARTICLE VII. APPLICATION PROCESS

The application process involves several steps and a minimum of two meetings with the Planning Board: one meeting for determination of the completeness of the application and one for the public hearing and decision. Approval shall be obtained at each step before proceeding to the next. The applicant should be aware that successful completion of the steps described below shall not necessarily guarantee Planning Board approval of the subdivision.

A. PRE-APPLICATION

1. The applicant shall meet with the CEO prior to formal submission of the application and subdivision plan. At the meeting the applicant shall submit a PRELIMINARY sketch of the subdivision plan and evidence of successful soils tests if sewage disposal will be onsite. It is not necessary to show any of the other required submissions at this time unless they have been already completed.

2. At the end of the meeting the CEO shall give the applicant a checklist which indicates any additional items needed in order for the preliminary sketch to meet the requirements for a final

subdivision plan (see Article VIII.A.Subdivision Plan Criteria).

B. APPLICATION RECEIPT

1. The completed application form including all required submissions and the application fee shall be submitted to the CEO.

2. An application fee of \$100.00 per lot shall be paid to the Town of Winthrop. No application shall be accepted by the CEO without the application fee.

3. If the application is completely filled out and includes all the required submissions, the CEO shall give the applicant a dated receipt indicating the date the application was received. If the application is deficient, the CEO shall not accept the application.

4. The Town shall notify by mail all abutting property owners of the proposed subdivision, specifying the location of the proposed subdivision and a general description of the project. The Town shall also notify property owners within 500 feet of any boundary line of the proposed subdivision as determined by the Town's tax maps. Notifications in the Rural Zoning District shall include property owners within 1000 feet of any boundary line of the proposed subdivision.

5. The applicant shall receive notification by mail of the date, time, and place of step C. DETERMINATION OF COMPLETENESS OF APPLICATION.

C. DETERMINATION OF COMPLETENESS OF APPLICATION

1. Within 30 days of the CEO's receipt of the application, the Planning Board shall meet with the applicant to determine the completeness of the application and shall notify the applicant in writing that the application is complete or that it is not complete and list the items required for completeness.

2. In making a determination of completeness, the Planning Board shall consider all the information submitted by the applicant and the comments of the Municipal Review Committee. The Board may request any additional information it determines necessary to complete the application based upon this Subdivision Ordinance and the state Subdivision Law (Title 30 M.R.S.A., Section 4956).

3. If the applicant feels there is justifiable reason for not completing any of the required submissions, he or she may request a waiver at this step in the process. The Planning Board may grant a waiver if it determines that the submission is not needed in order to form a decision according to this Ordinance and the state Subdivision Law.

4. If the Planning Board requires additional information, the application shall be complete upon determination by the CEO that the information subsequently submitted satisfies the request of the Planning Board. The CEO shall notify the applicant in writing of the date the application was deemed complete.

5. If the Planning Board deems it necessary, the Board shall set the date for a site visit at this time.

D. SITE VISIT

1. If no site visit has been scheduled, individual members of the Board and the CEO should inspect the property on their own.

2. The property shall be well marked or flagged and the

applicant or a designated agent shall attend the site visit to answer questions and assist the Board in locating lots, soil test pits, etc.

E. PUBLIC HEARING

1. The Planning Board shall hold a public hearing within 30 days of the date that the application was determined to be complete.

2. The Town shall notify the applicant at least seven days in advance of the date, time, and place of the public hearing. The Town shall cause a legal notice of the date, time and place of the public hearing to be published in a local newspaper at least two times. The date of the first publication shall be at least seven days prior to the hearing. In addition, the Town shall post notice of the hearing at the Town Office at least seven days in advance of the meeting.

3. Failure of any property owners to receive notice of the public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

4. The length of the hearing will depend upon public input. In the event that little public concern is received, the Planning Board may proceed to step F. DECISION during the same meeting. However, the hearing may extend beyond one meeting on complex or controversial cases.

5. If the public hearing is lengthy, the applicant shall receive notification by mail of the date, time and place of step F. DECISION.

F. DECISION

1. The Planning Board shall issue a written Finding of Fact and Order to approve, approve with conditions, or deny the application within 30 days of completion of the public hearing or within such other time limit as mutually agreed upon by the Board and the applicant.

2. The Planning Board shall consider all information submitted by the applicant, any information gathered during a site visit, public comments, other information on record, this Subdivision Ordinance, and the state Subdivision Law in forming a decision.

3. If a subdivision is approved, the voting members of the Planning Board shall sign and date the final subdivision plan.

4. Within two working days of Planning Board signature, the applicant shall submit one copy of the signed plan to the CEO and one copy to the Town Tax Assessor. Within 30 days of Planning Board signature, the applicant shall file the signed plan with the Kennebec County Registry of Deeds, unless particular circumstances warrant the Planning Board to grant an extension. Any plan not so recorded shall become null and void. At the time of recording, the applicant shall arrange to have an attested copy of the signed, recorded plan sent from the Registry of Deeds to the Town Office or the approved plan shall become null and void.

5. No changes, erasures, modifications or revisions shall be made in any final plan after Planning Board approval has been given and endorsed in writing on the plan, unless the plan is first re-submitted and subsequently approved by the Planning Board. In the event that a plan is recorded without complying with this requirement, such plan shall become null and void, and the Planning Board shall institute proceedings to have the plan stricken from the Town records and

the Registry of Deeds.

ARTICLE VIII. SUBDIVISION PLAN CRITERIA AND STANDARDS

A. SUBDIVISION PLAN CRITERIA

The final subdivision plan shall conform to the Maine Board of Registration for Land Surveyors standard boundary survey, Category I, Condition II, and shall show all of the following:

1. Name of the subdivision, the owner(s), the deed reference to land subdivided, the surveyor's stamp, and engineer's stamp if applicable.
2. Graphic scale, date, legend, and north arrow.
3. Surveyed boundaries of tract, tract size, surveyed lot lines, lot sizes, and lot numbers and/or letters in a logical sequence.
4. Current ownership and location of abutting properties.
5. Name, location, and width of all streets, existing and proposed. If subdivision roads are intended to be private, they shall be so labeled.
6. Type and location of all existing and proposed surface water drainages (intermittent or permanent streams, culverts, ditches, areas of standing water, etc.).
7. Location of all existing and proposed utilities.
8. Location of all existing and proposed public water and public sewer lines; or location of successful soils evaluation with accompanying soils description for individual sewage disposal systems. Individual systems shall be designed so that pollution of nearby wells is avoided.
9. Topography at five foot contour intervals, unless otherwise prescribed by the Planning Board. The topography must be field checked so that the mapping does indeed reflect the lay of the land.
10. The location of existing natural or manmade features influencing the layout of the proposed subdivision (i.e. rock walls, streams, flood zones, wetlands).
11. The location and type of permanent markers set or to be set at all lot corners.
12. The type and location of any easements for utilities, drainage, public or common areas.
13. Space reserved for Planning Board signature under heading "Final Plan".

B. STANDARDS

1. Land within the 100 year flood zone and wetlands as defined by this Ordinance may be included as part of the minimum lot size provided that the lot contains at least 20,000 square feet of soils suitable for building (see Article XII. Definitions) and/or subsurface wastewater disposal.
2. When available, public water and public sewer shall be provided.
3. The applicant shall submit an erosion control plan which shall include temporary and permanent measures designed to ensure that no sediment will leave the site and a schedule showing when erosion con-

trols will be installed in relation to construction activities. In addition, the erosion control plan shall include a site plan locating erosion controls for use by the contractor and/or builder.

4. The applicant shall submit a stormwater management plan with a TR-55 analysis and stormwater controls designed to ensure that there will be no increase in the peak flow which leaves the project boundaries from a 25-year, 24-hour storm after development. All drainageways (culverts, ditches, storm sewers) shall be adequately sized to carry runoff from the 25-year, 24-hour storm and be designed to maintain natural flow and prevent sedimentation during flooding. Provision shall be made for maintenance and inspection of controls where necessary.

5. The applicant shall submit a phosphorus control plan designed to ensure that the level of phosphorus leaving the site will not exceed a level set by the Cobbossee Watershed District or the Town using the Department of Environmental Protection's handbook "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development". Provision shall be made for maintenance and inspection of controls where necessary. In addition, any subdivision within the direct watershed of the following sensitive lakes shall require extensive phosphorus controls such as the installation of wetponds prior to any clearing of the land or road construction: Annabessacook Lake, Cobbossee Lake, and Little Cobbossee Lake.

6.a. The applicant shall submit a nitrate concentration study for each subsurface wastewater disposal system unless exempted by one of the following:

- the subdivision is served by public water or public sewer,
- a subsurface wastewater disposal system is located beyond 300 feet of any proposed or existing downgradient well and beyond 300 feet of the project boundaries (a plan shall be submitted and plume widths drawn as stated in section 6.b. below in order to qualify),
- a lot is five acres or more in size with soils that are three feet or more to bedrock, unless the soils have low permeability (glacio-marine or glacio-lacustrine clay and silt, for example).

b. A nitrate concentration study shall meet the following criteria:

- the two-dimensional groundwater flow model shall be used where average annual recharge is calculated for the area of an approximate, 30 degree angle effluent plume. Where slopes exceed 10 percent, measured from the test pit to the property line, a 20 degree angle effluent plume shall be used.
- the volume of effluent shall be based upon the Maine State Plumbing Code.
- effluent leaving the leach field shall have a nitrate concentration of no less than 30 mg/l.
- background nitrate concentration shall be 0.5 mg/l.
- dilution of nitrates shall be calculated from precipitation falling on the plume area. No groundwater

shall be used for dilution.

-the average annual recharge rate used shall be consistent with these values-

glacial outwash sands and gravels	50-60%
marine silts/clays	5%
thick silty glacial till	5-15%
thick coarse granitic till	25%

-the selection of the proper recharge rate shall depend on other pertinent factors such as geologic conditions, soil characteristics, vegetation, and slope.

-a severe drought scenario shall be determined for situations where the nitrate concentration at a lot line, proposed or existing water supply is greater than or equal to 8.0 mg/l. The severe drought scenario shall be calculated using 60% of the average annual recharge rate in order to show that the nitrate concentration will not exceed 10 mg/l under the worst conditions.

-the report shall list the nitrate concentration calculated at lot lines, proposed and existing water supplies. The report shall explain in detail the assumptions used and include a map showing the effluent plumes, lot lines, proposed and existing water supplies.

7. The applicant shall submit a traffic study. For all subdivisions the study shall include the expected volume of traffic resulting from the development and a site distance analysis at each entrance and each intersection within the subdivision. For commercial subdivisions, a determination of the number of parking spaces required shall also be included. The Board may request, at its discretion, a full traffic study which conforms to traffic movement standard used by the Department of Environmental Protection under the Site Location of Development Act.

8. If the subdivision is for commercial or multi-family purposes, the applicant shall submit evidence of proper storage, screening, transport, and disposal of solid waste.

9. If the subdivision will be served by public water and/or sewer, the applicant shall be responsible for obtaining Winthrop Water District approval of design, equipment specifications, and installation procedures. Winthrop Water District approval shall be based upon the design and construction standards of the District and Public Utilities Commission. Such approval shall be obtained prior to the Planning Board's public hearing on the subdivision. The Planning Board may require plans showing the location and specifications for water and sewer pump stations at the Determination of Completeness of Application step.

10. The applicant shall submit evidence of financial capability which shall include an accurate and complete cost estimate for all aspects of the subdivision and a letter from a financial institution, governmental agency or other funding agency indicating a commitment or intent to fund for a specified amount of money and listing the specific uses for the funds. If the applicant will personally finance the subdivision, the applicant shall submit copies of bank statements or other

evidence indicating availability of funds. Further, the applicant shall submit evidence of technical capability which shall be a description of the types of personnel who will be employed to design, install, and operate environmental controls with their names, addresses and phone numbers.

11. In accordance with the state Subdivision Law, the Planning Board may require a subdivision to have open space or undevelopable areas in order to protect scenic or natural beauty, aesthetics, historic sites, rare and irreplaceable natural areas, or public rights to physical or visual shoreline access. Areas which do not meet the minimum lot size for the particular zoning district shall be deeded as undevelopable. Open space and undevelopable areas shall be deeded as part of an existing lot or deeded to an association of lot owners, a land trust, conservation commission, watershed district, or to the Town. Any such transfers shall occur prior to the sale of the first lot after subdivision approval.

12. The Planning Board may require a minimum buffer strip of 50 feet in width when a proposed subdivision is located adjacent to an area containing a different use.

13. Municipal Roads and Streets [amended, effective 7/4/95]

a. Road access to any lot shall be completed, except for paving, before the final sale of that lot.

b. Roads shall be planned and constructed in accordance with the "Town of Winthrop Road and Street Construction Ordinance #21". [amended, effective 7/4/95]

c. The applicant shall obtain a letter from the Town's engineer which states that the road plans are adequate in order to make the application complete.

14. Repealed [amended, effective 7/4/95]

15. The proposed subdivision shall comply with all applicable provisions of the Town of Winthrop Zoning Ordinance and Comprehensive Plan.

16. The Planning Board reserves the right to request any additional information deemed necessary to make a decision according to this Subdivision Ordinance and the state Subdivision Law.

17. All plans shall be 24 inches wide by 35 inches long. All other information shall be submitted on standard 8 1/2 by 11 inch paper.

ARTICLE IX. STATE SUBDIVISION LAW

When reviewing any subdivision for approval, the Planning Board shall consider the current edition of the state Subdivision Law. The 1988 version, as published by the Maine Department of Economic and Community Development Office of Comprehensive Planning, is included in Appendix I of this document.

ARTICLE X. STANDARD CONDITIONS OF APPROVAL

A. This approval is limited to the proposals and plans contained in the application and supporting documents submitted by the applicant. Any variation from these plans requires review and written approval by the Planning Board prior to implementation.

B. Further subdivision of proposed lots by the applicant or future owners is specifically prohibited without prior written approval from the Planning Board.

C. The applicant shall secure and comply with all applicable federal, state and local licenses, permits, conditions, agreements, and orders prior to or during construction and operation, as appropriate.

D. The applicant shall submit all information requested by the Board as a condition of approval to the Codes Enforcement Office before construction begins, unless otherwise specifically authorized.

E. Unless specifically authorized in this approval, the applicant shall not sell, lease, assign, or otherwise transfer the development or any portion thereof without prior written approval of the Board where the purpose or consequence of the transfer is to transfer any of the obligations of the applicant as incorporated in this approval.

F. A copy of subdivision approval shall be included in or attached to all contract bid specifications for the development. Work done by a contractor pursuant to subdivision approval shall not begin before the contractor has been shown a copy of this approval.

G. Any violation of this approval and conditions thereon shall be enforceable by the Codes Enforcement Office.

ARTICLE XI. PERFORMANCE GUARANTEES

A. A performance guarantee shall be required for subdivisions which involve construction of municipal roads. A performance guarantee may be required, at the discretion of the Board, for subdivisions which involve extensive erosion, stormwater, phosphorus or other environmental controls, or public utilities. The Board shall not sign the subdivision plan until the guarantee has been received by the CEO. The CEO shall forward the guarantee to the Town Manager.

B. The performance guarantee shall be a certified check, savings account or certificate of deposit in the name of the Town of Winthrop for the establishment of an escrow account. A letter of credit shall also be acceptable.

C. The amount of the guarantee shall be at least equal to the total cost of installing and completing the municipal roads in accordance with the "Ordinance for the Construction, Reconstruction, Laying Out and Acceptance of Streets, Roads, Ways or parts thereof, in the Town of Winthrop". If a guarantee is required for subdivisions with extensive environmental controls, the amount shall be at least equal to the total cost of installing and completing all controls.

D. The Town shall release the guarantee upon Town Council acceptance of the municipal roads, and if the guarantee covered other work, Planning Board approval. The Planning Board shall give its approval if it finds the work has been satisfactorily completed in accordance with the subdivision permit and all applicable local and state laws, regulations, and standards.

E. The Town shall release half the guarantee if the applicant documents the fact that work accomplished cost half the guarantee, subject to the approval of the Town Council and/or the Planning Board.

F. If any aspect of the work covered by the guarantee is not satisfactorily completed, the CEO shall notify the applicant and allow 30 days for correction. If correction does not occur in 30 days, the Town shall confiscate monies from the guarantee to have the work done properly or otherwise make amends, subject to approval of the Town Council and/or the Planning Board. The applicant shall then be required to increase the amount of the guarantee to cover all remaining work, if necessary.

G. If the applicant has justifiable reason for not being able to correct the work within 30 days, the Town Council and/or the Planning Board may grant an extension. Extension shall be denied if further delays in action will result in erosion, sedimentation, or otherwise degrade water quality.

ARTICLE XII. DEFINITIONS

Abutter: One whose property is contiguous or joins at a border or boundary the property in question. The term does not include land across a road from the property in question.

Codes Enforcement Office: A person or persons hired by the Town to administer and enforce Town Ordinances and to assist the Planning Board and Zoning Board of Appeals.

Driveway: A road serving no more than two lots.

Lot: A parcel of land in single ownership, described on a deed, plot, or similar legal document.

Minimum lot size: The smallest area of a lot allowed in a particular zoning district according to the Winthrop Zoning Ordinance and state regulations.

Municipal Review Committee: A committee consisting of the Police Chief, Fire Chief, Town Manager, Tax Assessor, and the Winthrop Water District.

Private Road: A road serving three or more lots which is not a municipal road.

Right-of-way: The customary or legal right to pass over someone else's land.

Soils suitable for building:

A. Soils which are excessively drained, well drained, and moderately well drained, according to the drainage definitions of the USDA Soil Conservation Service,

B. Soils which are somewhat poorly drained and poorly drained except when artificial drainage cannot be achieved without pumping,

C. Soils which fall into either A. or B. but are less than 20,000 square feet may be suitable if, when added together, they total at least 20,000 square feet.

Structure: Anything built for the support, shelter, or enclosure of persons, animals, or property of any kind, except for fences and utility poles.

Subdivision: The definition is as defined by the current edition of the state Subdivision Law (see Appendix I).

Waterbody: A lake, pond, river, stream, or brook.

Wetland: A swamp, marsh, bog or similar area which is characterized by wetland vegetation (such as cattails, pickerel weed, marsh grass, etc.) and/or very poorly or poorly drained soils according to the drainage classes established by the USDA Soil Conservation Service.