

# TOWN OF FARMINGTON

## Subdivision Ordinance

Enacted: July 22, 2003

Amended: March 14, 2005

Amended: December 12, 2023

Certified by: \_\_\_\_\_

Town Clerk  
Title

Affix Seal

## **Town of Farmington Subdivision Ordinance**

### **11-10.1 Title**

This Ordinance replaces the Farmington Subdivision Regulations (4-3-78 and subsequently modified on 9-12-01) and shall be known and cited as the Town of Farmington Subdivision Ordinance and will be referred to as “this Ordinance”.

### **11-10.2 Authority, Administration, and Applicability**

This Ordinance has been adopted in accordance with Title 30-A M.R.S. §4401 et. seq., as hereafter amended. It shall apply to all subdivisions (residential, commercial and industrial) as defined by said State law.

The Planning Board of the Town of Farmington, herein referred to as “the Board”, shall administer this Ordinance.

The provisions of this Ordinance shall govern all land and all structures of all proposed subdivisions, as defined, within the boundaries of the Town of Farmington.

No subdivision (as defined herein) within the Town of Farmington shall be permitted except within the provisions and standards of this Ordinance. No person, firm, corporation, or other legal entity may sell, lease, develop, build upon or convey for consideration any land or structure(s) requiring approval as a subdivision, before applying for and receiving subdivision approval.

### **11-10.3 Purpose**

The purpose of this Ordinance shall be:

- A. To establish an administrative review process which will provide the Board with sufficient evidence, data, and materials to carry out its responsibilities as required by 30-A M.R.S. §4401 et seq., and be in accordance with the Town’s goals, objectives and priorities as articulated in its Comprehensive Plan;
- B. To assure the comfort, health, safety and general welfare of the residents of the Town of Farmington; and
- C. To protect the environment and conserve the natural and cultural resources of the Town of Farmington.

### **11-10.4 Validity and Severability**

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

### **11-10.5 Conflicts with Other Ordinances**

Whenever a provision of this Ordinance conflicts with or is inconsistent with other provisions of this Ordinance, or of any other ordinance, regulation or standard, the more restrictive provision shall apply.

### **11-10.6 Effective Date**

The effective date of this Ordinance shall be July 22, 2003

### **11-10.7 Definitions**

**Abutter.** Abutter shall mean the owner(s) of record of a property sharing a common boundary with a given piece of property, whether or not these properties are separated by public or private right-of-way.

**Aggrieved Party:** Aggrieved Party shall mean any person, body, company, corporation, or other legal entity who has been denied or alleges to have been denied some personal or property right or who has had an imposition, burden or obligation impaired upon or whose pecuniary interest is directly affected.

**Comprehensive Plan:** Comprehensive Plan shall mean the Comprehensive Plan adopted by the Town of Farmington on 7-15-98, amended on 11-18-99, and as subsequently amended.

**Easement:** Easement shall mean the legal right of use of a portion of land for specified purposes.

**Fresh Water Wetland:** Fresh Water Wetland shall mean fresh water swamps, marshes, bogs and similar areas which are:

1. 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
2. Not considered part of a great pond, river stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

**Lot of Record:** Lot of record shall mean a piece of land measured and set apart for a specific use and recorded in the Franklin Country Registry of Deeds.

**Stream, River or Brook:** Stream, River or Brook shall mean a channel between defined banks. A channel is created by the action of surface water and has two (2) or more of the following characteristics:

1. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topography map or if that is not available, a 15-minute series topography map.
2. It contains or is known to contain flowing water continuously for a period of at least three (3) months of the year in most years.
3. The channel bed is primarily composed of material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
4. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present in the stream bed.
5. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

Stream, river, or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

**Subdivision:** Subdivision shall mean the subdivision of a tract or parcel of land as defined in Title 30-A, M.R.S. §4401 et seq., and as hereafter amended.

A subdivision would include, but not be limited to, such developments as apartments, condominiums, shopping centers, mobile home parks, industrial parks, and planned unit and cluster developments.

Per Title 30-A M.R.S. §4401 et seq., and upon enactment of this Ordinance, the Town has elected not to count lots of forty (40) or more acres as lots for the purposes of this Ordinance when the parcel of land being divided is located entirely outside any shoreland area as defined in the Town's Shoreland Zoning Ordinance.

## **11-10.8 Review Procedure**

This Ordinance shall provide an application and review procedure consisting of:

### **A. Pre-application meeting with the Code Enforcement Officer (CEO)**

The applicant, or his agent who shall be authorized as such in writing, shall first meet with the CEO to present general information regarding the proposed subdivision. The CEO shall provide the applicant with all necessary application forms, advise the applicant of review criteria, including the review criteria contained in Title 30-A M.R.S. §4404 et seq., performance standards, and any other applicable Town land use

ordinances, and inform the applicant of any other submissions that may be necessary to deem the application complete.

## **B. Submission of a complete application form and subdivision plan**

The applicant shall submit fifteen (15) copies of the completed application form, subdivision plan, and supplemental information to the CEO.

1. The application form shall include:
  - a. Name, address, and phone number of property owner, applicant, and any other person involved in preparation of this application and plan;
  - b. Name, address, and map and lot numbers of all abutting property owners;
  - c. Location of the proposed subdivision;
  - d. Type of subdivision (residential, commercial or industrial);
  - e. Name of proposed subdivision;
  - f. Number of units;
  - g. Number of acres;
  - h. Existing use of proposed site;
  - i. Notification if site is in Tree Growth or Farm and Open Space;
  - j. Average number of vehicles per day anticipated using this site;
  - k. Nature of interior roads;
  - l. Manner in which police and fire service (access for emergency vehicles) will be provided;
  - m. Impact on public infrastructure;
  - n. Water supply; ~~and~~
  - o. Sewage disposal; ~~and~~ **and**
  - p. Long-term affordability covenant per 30-A M.R.S. §4364(3), as enacted by PL 2021, c. 672, §4, is amended to read:

Before granting final approval of an affordable housing development, including but not limited to issuing an occupancy permit, a municipality shall require that the owner of the affordable housing development have executed a restrictive covenant, recorded in the appropriate registry of deeds, for the

benefit of and enforceable by a party acceptable to the municipality, to ensure that for at least 30 years after completion of construction:

- 1) For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and
- 2) For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

2. The subdivision plan shall include, but not be limited to:

- a. A survey plan (to scale, recommended 1 inch : 100 feet) showing the location of the entire proposed subdivision, boundaries of the tract, lot lines with their approximate dimensions, location and width of all streets, roads, rights-of-way, location of all existing and proposed buildings, utility poles, walls or fences, brooks, culverts, soil test pits, and permanent markers. The survey plan shall include the stamp and signature of the surveyor, architect, engineer or planning consultant. The survey plan must also include topography at twenty (20) foot intervals unless otherwise prescribed by the Board. In addition, the survey plan shall show the location of existing and proposed wells and septic systems, the location of any existing natural and manmade features including all rivers, streams, brooks, and wetlands within or adjacent to the proposed subdivision which may influence the layout of the proposed subdivision;
- b. Septic suitability soil tests for every "non-sewered" lot in a residential, commercial or industrial subdivision; and
- c. The location and elevation of any 100-year floodplain. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that the principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

3. Supplemental Information

Depending on the size, complexity and/or nature of the proposal, the CEO and/or the Board may require sufficient information on one or more of the following to allow for review of the proposal under the performance standards of this Ordinance and other applicable ordinances:

- a. A soil erosion control and storm water runoff management plan using Best Management Practices (BMP's) as stated in "Maine's Erosion and Sediment

- Control Handbook for Construction” – March 1991 or latest revision. [Note: If the proposed subdivision triggers applicability of the Town’s Soil Erosion Control and Storm Water Management Ordinance, an additional application for approval under same must also be filed];
- b. Parking plan [see Zoning Ordinance Performance Standards];
  - c. An Access Management Plan and/or a copy of the approved Driveway or Entrance Permit issued by the Maine Department of Transportation if a driveway(s) or entrance(s) will enter onto a State or State aid road outside the urban compact area. [see Zoning Ordinance Performance Standards];
  - d. Landscaping plan [see Zoning Ordinance Performance Standards];
  - e. If applicable, a letter stating that the subdivision will not cause an unreasonable burden on the water supply from either the Farmington Water Department (FVC), or the Farmington Falls Standard Water District (FFSWD);
  - f. If applicable, a letter from the Wastewater Treatment Facility (WWTF) superintendent assessing the impact of the proposed subdivision and stating that it will not cause an unreasonable burden on the municipal sewer system. Commercial and industrial subdivisions must state their plans for solid waste disposal;
  - g. A letter from the CEO stating that the proposed subdivision property is in compliance with all applicable Town land use ordinances, or State and federal requirements;
  - h. Letters from the Fire Chief, Police Chief, and Director of Public Works stating that the proposed subdivision is adequately designed for traffic safety and handling emergency vehicles;
  - i. Aerial photo (or copy of same) of subject and adjacent properties;
  - j. The location of and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife; and
  - k. The location of known archeological resources, historic buildings or sites, unique natural areas, and scenic areas with a written description of how such features will be maintained or impacts upon them minimized.

### **C. Onsite Visit**

All proposed subdivision sites shall have an onsite visit by the CEO or designated agent. Additional site visits may be scheduled by the Board.

#### **D. Abutter Notification**

When the CEO determines that the application and subdivision plan are complete, abutting property owners shall be notified by certified mail, at least fifteen (15) days prior to initial Board consideration of a pending application for subdivision. This notice shall indicate the time, date and place of Board consideration of the application. The cost of notification shall be borne by the applicant.

#### **E. Planning Board Review**

When the CEO has determined that the application and subdivision plan are complete, the CEO shall then place the application on the Board's agenda. The applicant, or duly authorized agent, who shall not be the CEO, shall attend the meeting where the application is presented and reviewed by the Board.

##### **1. Public Hearing**

In the event that the Board determines to hold a public hearing on the proposed subdivision, it shall hold such hearing within thirty (30) days of the receipt of the completed application, and shall publish notice of the date, time and place of such hearing in a newspaper of general circulation at least two (2) times. The date of the first publication must be at least fourteen (14) days before the hearing and the second notification must be at least seven (7) days before the hearing. Notice of the hearing must be posted in the municipal office building at least fourteen (14) days before the hearing.

##### **2. Additional Studies**

The Board may require the applicant to undertake any additional studies which are reasonable and justifiable to accomplish the requirements of this Ordinance. The costs of all such studies shall be borne by the applicant.

#### **F. Performance Guarantee**

The Board may require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation and maintenance of all offsite improvements, and onsite improvements with offsite impacts, required as a condition of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

In the event that a development is abandoned, the performance guarantee may be utilized to stabilize, secure, and/or restore the site as may be necessary, including, but not limited to, re-vegetation of areas, grading and fencing.

### **11-10.9 Fees/Costs**

- A. All applications must be accompanied by the appropriate application fee that shall be set by the Select Board.
- B. All applicable fees, including but not limited to postage reimbursement, advertising fees, consultant fees, will be the responsibility of the applicant and must be paid before receiving written confirmation of approval by the Board.
- C. The cost of all first-time street/road signs including any type of sign that is required for the development i.e. – Stop, Curve, etc. will be the responsibility of the developer.

### **11-10.10 Performance Standards**

The following performance standards, in addition to the criteria contained in Title 30-A §4404.1-19, are to be used by the Board in reviewing subdivision applications and shall serve as minimum requirements for approval. The subdivision shall be approved, unless in the judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant, and such burden of proof shall include the production of evidence necessary to demonstrate that the standards will be met.

#### **A. Landscape Preservation**

The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal and disturbance of soil, and retaining existing vegetation during construction.

#### **B. Vehicular Access**

The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal and State road systems. Access management plans must conform with all performance standards for same in the Town's Zoning Ordinance.

#### **C. Parking and Circulation**

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas,

and arrangement and use of parking areas. Off-street parking and loading area plans must conform with all performance standards for same in the Town's Zoning Ordinance.

#### **D. Soil Erosion/Stormwater Runoff/Drainage**

The development shall not cause unreasonable soil erosion. Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, or the public storm drainage system. When possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site. If the proposed subdivision triggers applicability of the Town's Soil Erosion Control and Storm Water Management Ordinance, an additional application must be filed.

#### **E. Existing Utilities**

The development shall not impose an unreasonable burden on sewers, storm drains, water lines, or other public utilities.

#### **F. Municipal Services**

When the Board finds, based upon the recommendation of Department Heads, that municipal services do not have sufficient capacity to service the proposed subdivision, the Board may require phasing of the subdivision to allow for the development of expanded municipal services, deny the application, or require the applicant to assist in upgrading municipal services.

#### **G. Exterior Lighting**

All exterior lighting shall be designed to minimize adverse impact on neighboring properties. Outdoor lighting plans must conform with all performance standards for same in the Town's Zoning Ordinance.

#### **H. Groundwater Quality**

The development shall not result in an obvious reduction of groundwater quality. In making this determination, consideration shall be given to topography, any underlying aquifers and aquifer recharge areas, the nature of soils and subsoils and, if applicable, their ability to adequately support subsurface wastewater disposal.

#### **I. Water Supply**

The developer shall provide reasonable evidence for an adequate water supply for its intended use and will not cause an unreasonable burden on an existing water district or water department, if one is to be utilized.

## **J. Sewer/Septic**

The development shall provide for adequate sewage waste disposal in accordance with the Town of Farmington Sewer Use Ordinance and the Maine Subsurface Wastewater Disposal Rules.

## **K. Natural Areas/Historic Sites**

The development shall not have an undue adverse effect on historic sites or rare and irreplaceable natural areas.

## **L. Capacity**

The applicant shall demonstrate adequate financial and technical capacity to meet the above standards.

### **11-10.11 Approvals, Conditions, Findings, Denial**

The Board, within thirty (30) days of a public hearing, or within sixty (60) days of receiving the completed application if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, shall deny or grant approval of the proposed subdivision or grant approval with conditions as it may deem advisable to satisfy the performance standards listed in Section 11-10.11 of this Ordinance and the performance standards in the Town's Zoning Ordinance. In all instances the burden of proof shall be on the applicant.

Upon completion of the requirements of this Ordinance, and approval by the Board, the majority of the Board shall sign the submitted plan which shall deem the Board's final approval. The plan shall be filed by the applicant with the Franklin County Registry of Deeds. Any subdivision plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days. The developer shall bear the cost of any registration fees.

No changes, erasures, modifications, or revisions shall be made on any plan after approval has been given by the Board and endorsed in writing on the plan, unless the plan is first resubmitted, and the Board approves any modifications. In the event that a plan is recorded without complying with this requirement, the same shall be considered null and void.

### **11-10.12 Appeals**

Any party aggrieved by the final determination by the Board may appeal to the Farmington Board of Appeals by filing an application for appeal within thirty (30) days after receipt of the Board's decision. The Board of Appeals may affirm, modify or

reverse the Board's decision after holding a public hearing and may grant a variance as defined herein. Public hearings shall be held in accordance with Title 30-A M.R.S. §2691.

### **11-10.13 Amendments**

#### **A. An amendment to this Ordinance may be initiated by:**

1. The Select Board, provided a majority of the Select Board has so voted;
2. Written petition of a number of voters equal to at least ten percent (10%) of the number of votes cast in the municipality at the last gubernatorial elections.

### **11-10.14 Enforcement**

#### **A. Violations**

1. Any violation of this Ordinance, including failure to comply with any condition, shall be deemed to be a violation of 30-A M.R.S. §4452.
2. Commencement of any project without Planning Board or CEO approval shall be considered a violation of this Ordinance. Any party committing such a violation shall immediately cease project operations, whether of a construction, renovation or business nature, upon notification by the CEO per B.1. below or upon self-discovery of the violation. In such cases, an after-the-fact (ATF) application for Subdivision Approval must be immediately filed with the CEO. The ATF application fee will be double the normal application fee and must be paid prior to Planning Board review. Payment of this ATF application fee does not preclude the Town from pursuing fines and/or penalties under 30A MRSA §4452 (per A. 1. above and D. below) or preclude the Town from negotiating and executing an administrative consent agreement to recover fines without court action (per C. below).

#### **B. Code Enforcement Officer**

1. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement or mitigation of violations. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

2. The CEO shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of the Ordinance.
3. The CEO shall keep a complete record of all essential transactions of the CEO, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found and fees collected.

### **C. Legal Actions**

When the above action does not result in the correction or abatement of the violation, the Municipal Officers, upon receiving written notification from the CEO, shall institute any and all actions and proceedings, either legal or equitable, including injunctions of violations and the impositions of penalties and/or fines in order to enforce the provisions of this Ordinance. The Municipal Officers or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action.

### **D. Penalties/Fines**

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance, or upon failure to comply with any of its requirements, shall be penalized in accordance with Title 30-A M.R.S. §4452. The owner or tenant of any building, structure, premises, or part thereof and any architect, builder contractor, agent, or other person who commits, participates in, or maintains such violation may be found guilty of a separate offense and be subject to the penalties herein provided.