

**TOWN OF CARMEL**  
**SUBDIVISION ORDINANCE**

**Adopted: \_\_\_\_\_ , 2023**

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## **ARTICLE I. PURPOSES**

The purposes of this Ordinance are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Carmel, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Carmel, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed subdivision will meet the requirements established by State Subdivision Law.

## **ARTICLE II. AUTHORITY, ADMINISTRATION, EFFECTIVE DATE REPEAL OF EXISTING ORDINANCE**

### **2.1 Authority**

- A. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII- A of the Maine Constitution and Title 30-A, M.R.S.A. Section 3001.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Carmel, Maine."

### **2.2 Administration**

- A. The Planning Board of the Town of Carmel, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined by this Ordinance within the Town of Carmel.

### **2.3 Effective Date**

The effective date of this Ordinance is \_\_\_\_\_, 2023, the date of enactment at a properly noticed Town Meeting.

### **2.4 Repeal of Existing Subdivision Ordinance**

Adoption of this Ordinance shall repeal any and all previous subdivision ordinances, and the Subdivision Regulations Governing Mobile Home Parks for Carmel, Maine, adopted March 4, 1991. This shall not prevent the enforcement of repealed ordinances or regulations with respect to the time periods in which they were in effect.

### **2.5 Conflict with Other Ordinances**

- A. This Ordinance shall not be construed to repeal any existing bylaws or ordinances, other than those specifically identified, or to impair the provisions of private restrictions placed upon property, provided, however, that where this Ordinance imposes greater restrictions, its provisions shall control.

## 2.6 Validity and Severability

- A. 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.

### ARTICLE III. DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**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. ("Agricultural products" means those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.)

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, shall be recorded at the Registry of Deeds.

**Fresh Water Wetland:** Means fresh water 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 great pond, river, stream or brook.

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

**High Intensity Soil Survey:** A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

**Infrastructure Improvements:** Roads, drainage and stormwater systems, common water and sewer systems whether public or private.

**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.

**Low Impact Development.** “Low impact development” or “green infrastructure” means site planning and design strategies intended to replace or replicate predevelopment hydrology through the use of source control and relatively small-scale measures integrated throughout a site to disconnect impervious surfaces and enhance filtration, treatment, and management of stormwater runoff as close to its source as possible. Low impact development strategies may be either nonstructural or structural, except that low impact development strategies utilizing structural stormwater management techniques shall be limited to an impervious contributing drainage area equal to or less than 1 acre. Low impact development strategies include, but are not limited to: bioretention filters, grass swales and channels, vegetated filter strips, permeable pavements, rain gardens and vegetated rooftops.

**Manufactured Housing:** Means a structural unit or units designated for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more sq.ft., and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit;
  - a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and

complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et.seq.; and

2. Those units commonly called "modular homes" which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

**Mobile Home Park:** A parcel of land under unified ownership approved by the Town of Carmel's Planning Board pursuant to the Town of Carmel's Subdivision Ordinance for the placement of three (3) or more manufactured homes.

**Mobile Home Park Lot:** Mobile home park lot means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality shall require a lot to be designated on a mobile home park plan.

**100 Year Flood:** The flood having a one percent chance of being equaled or exceeded in any given year.

**Open Space Development:** A subdivision in which the lot sizes are reduced below those normally required which in return for the provision of permanent open space owned in common by lot/unit owners, the Town, or a land conservation organization.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Preliminary Subdivision Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

**Recording Plan:** Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds.

**Resubdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

**Stream, River or Brook:** River, stream or brook means 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.

- A. 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.

- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. 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.
- D. 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.
- E. The channel bed contains aquatic vegetation and is essentially devoid of upland vegetation.

River, stream 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:** The division of a tract or parcel of land into three or more lots within a 5-year period as defined by Title 30-A M.R.S.A. Section 4401, as amended, and subject to any exceptions in Section 4402. In addition, Subdivision shall include developments where there are three or more dwelling units involved on a single tract or parcel of land such as mobile home parks, multiple family housing, apartment houses, multiple housing units, and condominiums, and the division of an existing structure or structures used for commercial or industrial use previously into three or more dwelling units within a 5-year period.

**Substantial Construction:** Completing of at least 30% of the required infrastructure improvements measured as a percentage of total estimated cost of improvements.

**Tract, or Parcel, of Land:** All contiguous land in the same ownership, whether or not the land is separated at any point by: an intermittent or non-navigable stream, provided that lands on the 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.

#### **ARTICLE IV. ADMINISTRATIVE PROCEDURE**

**4.1 Purpose.** The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

**4.2 Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least fourteen (14) days in advance of a regularly scheduled meeting by contacting the Chair or the Code Enforcement Officer. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes. Every application shall be accompanied by the written certificate of the Town's Code Enforcement Officer that the applicant is not in violation of any Town Ordinance regulating land use. No application shall be considered complete, nor shall any application be in order for review or approval unless accompanied by this written certificate. The Board shall not waive this requirement.

- 4.3 Joint Meetings.** If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Planning Board shall meet jointly with that municipality's planning board to discuss the application.

## **ARTICLE V. PROCEDURES FOR SUBDIVISION REVIEW**

### **5.1 PRE-APPLICATION SKETCH PLAN MEETING**

- A. Prior to the formal submission of a subdivision application and the preliminary plan, the subdivider or his authorized agent shall appear informally to discuss the proposed subdivision at a regular meeting of the Board.
- B. The applicant is urged to present to the Board, for informal review and comment, a sketch plan of the proposed subdivision. Such a sketch plan would show, in general terms, the layout of the lots, existing and proposed streets, and the topography of the land, including streams, swamps, and drainage areas.
- C. No binding commitment shall be made between the subdivider and the Board at this stage. A clear understanding of what is proposed, what is possible, and what is acceptable is the aim of the "Pre-Application Meeting."

### **5.2 SUBDIVISION APPLICATION AND PRELIMINARY PLAN**

- A. A subdivider shall submit a subdivision application to the Board upon forms to be provided by the Board. Within 30 days from receipt of the subdivision application, the Board shall notify the applicant in writing or other means, either that the application is complete, and if not, what specific additional information is necessary to make a complete application.
- B. The subdivider shall submit a Preliminary Plan map which shall not be less than 8 1/2" x 11" (at least 3 copies shall be provided - One for the subdivider or his authorized agent, one for the Board and one for the Board of Selectmen) and drawn to scale of not less than 1" equal 100' nor greater than 1" equals 400' with contour lines of 5' intervals (unless otherwise specified by the Board), and shall include:
  - 1. Proposed name or identifying title of the subdivision along with the date of submittal.
  - 2. Name and address of subdivider and his authorized agent (if necessary owner(s), engineer(s), and surveyor(s).
  - 3. The location and acreage of the tract or parcel of property, town tax map and lot number, and names of abutting landowners (information may be obtained either from the County Registry of Deeds and/or Municipal Tax Maps or Assessment Cards).
  - 4. Perimeter survey of tract made and certified by a registered land surveyor relating to reference points, and showing true north point, graphic scale corners of tract and date of survey and total acreage.

5. Existing buildings, lot lines, utility lines, sewer lines and pumping stations, water lines, easements, and natural features (lakes, streams, rivers, wetlands, natural drainage ways, wooded and open space areas, etc.)
  6. Proposed buildings, lot lines, and approximate dimensions and acreage of each lot, name, location, width, radius of curves of all proposed and existing roads, street and highways, utility lines, water lines, sewer lines, and pumping stations, easement and disturbances of natural features.
  7. Indication of proposed surface water drainage (by arrow) and diversion plan.
  8. If the subdivision is not to be served by a public sewer line, then an on-site soils investigation report by a soil scientist certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface sewerage disposal systems of each lot in the subdivision and signed by the soil scientist.
  9. Proposed water supply system.
- C. The Preliminary Plan map shall be accompanied by the following data where applicable.
1. If the owner of the land is not the subdivider, state whether the subdivider has an option to buy or a purchase and sales agreement.
  2. Statement indicating the water table level of the area which may consist of well logs from adjacent properties or other evidence of adequate water supply.
  3. Method of solid waste disposal.
  4. Copies of letters to abutting landowners notifying them of the proposed subdivision.
  5. State of financial capacity.
  6. Applicable local, state, and federal ordinances, statutes, laws and regulations such as, but not limited to, zoning ordinances, Great Ponds Act, Coastal Wetlands Act, and the flood prone areas subject to the National Flood Insurance Program, etc.
  7. Statement from the Fire Chief concerning a viability of water and/or fire pond.
  8. Deed restrictions and covenants running with the land or to be written into the deed.
  9. The Board may require that the subdivider make other studies and provide other data that it deems necessary or desirable to protect and assure the health, safety and welfare of the residents of the Town, including the future occupants of such subdivisions.

### **5.3 APPROVAL OF PRELIMINARY PLAN:**

- A. The Board shall vote to determine that the application is complete prior to its review and vote on the Preliminary Plan.
- B. The Board shall approve with modification or disapprove the Preliminary Plan. The reason for any modification or the causes for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the minutes of the Board.
- C. Approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather serve as approval of the general design submitted in the Preliminary Plan as a guide to the preparation of the Final Plan. The Subdivider or his authorized agent shall submit a fee of \$250.00 with the Preliminary Plan and a fee of \$100.00 per lot with the Final Plan. These checks shall be made payable to the Town of Carmel. There will be a fee of \$100.00 for all special meetings other than the regular scheduled meetings on the first Monday of each month, excluding holidays.
- D. Failure to submit the Final Plan within the designated time period shall require the submission of a new subdivision application.

### **5.4. PUBLIC HEARING**

- A. If the Board determines that a public hearing should be held either on the Preliminary Plan or Final Plan or both, it shall be held in accordance with M.R.S.A., Title 30-A M.R.S section 4403(4), it shall hold the public hearing within 30 days after determining they have received a complete application. The Board shall give notice of the date, time and place of the hearing to (1) the applicant and (2) published at least 2 times in a newspaper having general circulation in the Town of Carmel. The first date of publication must be at least 7 days before the hearing.

### **5.5. PERFORMANCE BOND.**

- A. The Board may require that the subdivider file with the Board at the time of submission of the final Plan a performance bond guarantee in the amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Treasurer of the Municipality or a faithful performance bond running to the Municipality and issued by a surety company acceptable to the Municipality. The conditions and amount of such certified check or performance bond shall be determined by the Planning Board of the municipality with the advice of various Municipal Officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the Final Plan within two years of the date of the certified check or performance bond.
- B. The Board may recommend a maximum extension of 23 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the Municipal Departments, good cause for such extension; such recommendation for

extension shall be referred to the Board of Selectmen for Official action.

Before a Subdivider may be released from any obligation requiring their guarantee of performance, the Board will require certification from the Selectmen to the effect that all improvements have been satisfactorily completed in accordance with all applicable standard, state and local codes and ordinances.

**5.6 THE FINAL PLAN**

The map of the Final Plan shall be submitted with original transparency and three copies and shall include:

- A. All the information shown on the preliminary plan map and any additions and modifications required by the Board.
- B. Map location of permanent markers at all lot corners. The term permanent markers shall include, but are not limited to the following: a granite monument, a concrete monument, an iron pin, a drilled hole in ledge, or stonewall.
- C. The name, registration number and seal of the land surveyor who prepared the plan. The Board will not accept or approve any final plan or final documents that are not sealed and signed by a professional land surveyor who has supervised the preparation of the plans as provided in Title 32, M.R.S. section 18226.
- D. Suitable space to record on the Final Plan approval by the Board with conditions, if any, and also the date of such approval as follows:

Town of Carmel Planning Board

Approval: \_\_\_\_\_,Chairman

Signed: \_\_\_\_\_ (ALL MEMBERS TO

SIGN)

Date: \_\_\_\_\_

Conditions: \_\_\_\_\_

**The map of the Final Plan shall be accompanied by the following data:**

- 1. Statement from the selectmen and/or Road Commissioner that the proposed road or street construction, grading and ditching have been reviewed and approved.
- 2. Statement that all applicable local, state and federal ordinances, statutes, laws and regulations have been met.

3. Any covenants or deed restrictions intended to cover all or part of the subdivision that the board may require.
4. Evidence that the subdivider has filed a certified check or a performance Bond to cover the full cost of the required improvements with the Town Treasurer.
5. Erosion and sediment control plan (where required by the Planning Board.)
6. Other data may be requested by the Board to accompany the Final Plan.

#### **5.7. REVIEW OF CHECKLIST CRITERIA AND FINAL PLAN APPROVAL**

- A. Within 30 days of the Public Hearing, or if no hearing is held, within 60 days of the acceptance of the complete application, the Board by a majority vote shall grant approval, approve with conditions, or disapprove the Final Plan.
- B. The reason for any conditions or the causes for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the records of the Board.
- C. Upon approval of the Final Plan, a majority of the Board will sign all four copies. The original Transparency shall be filed with the Registry of Deeds within 120 days, one copy retained by the subdivider or his authorized agent, one copy will be retained for the records of the Board, and one copy retained by the Selectmen as a part of their Municipal files.
- D. No plan shall be approved by the Planning Board as long as the subdivider has outstanding violations on any approved subdivision plan within the Town of Carmel.
- E. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404, and this Ordinance and the Subdivision Application Checklist have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds by the subdivider within one-hundred twenty (120) days of the date upon which the plan is approved and signed by the Board shall become null and void.
- F. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

- G. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other 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 municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- H. Failure to commence substantial construction of the required infrastructure improvements for the subdivision within two years of the date of approval and signing of the final Plan shall render the Plan null and void. A statement of this effect must appear on any final plan. Upon good cause shown, the Board may extend the approval for additional two year periods. The extension request must be made to the Board at least thirty days prior to the time of expiration. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## **ARTICLE VI. ENFORCEMENT**

### **6.1 Inspection of Required Improvements**

- A. At least five days prior to commencing each major phase of construction of required infrastructure improvements, the sub divider or builder shall:
  - 1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required infrastructure improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
  - 2. In the event the Town requires inspection by an independent third party inspector, the applicant shall pay all fees associated with that inspection prior to approval of the application.
- B. If the inspecting official finds, upon inspection of the infrastructure improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required infrastructure improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor

modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, changes of grade by more than 1%, etc., the applicant shall submit to the Planning Board an amended application for review and approval in accordance with Section 6.2.

- D. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the sub divider shall provide the Board with a letter from a Professional Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a licensed professional engineer registered in the State of Maine shall be required by the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of the Town of Carmel, Maine, Street Construction Ordinance. "As built" plans shall be submitted to the Municipal Officers.
- G. The subdivider or builder shall be required to maintain all infrastructure improvements and provide for snow removal on streets and sidewalks and maintenance until acceptance of the improvements by the municipality.

## **6.2 Violations and Enforcement**

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with Title 30-A, M.R.S.A. §4404 and this Ordinance.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A., Section 4452. Each day the violation exists shall be considered a separate violation. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.
- E. No public utility or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. No person shall establish or develop a subdivision without first having a final plan thereof approved by the Planning Board. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of any buildings.
- G. Once a preliminary plan for a subdivision approval has been received by the Planning Board no lot or lots shall be sold or developed until the final plan has been approved and recorded in the Registry of Deeds.
- H. Consent Agreements: 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 collecting fines without court action.
- I. Legal Actions: When the above action does not result in the complete correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- J. 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 shall be penalized in accordance with Title 30-A M.R.S.A., Section 4452. Each day the violation exists shall be considered a separate violation.

## **ARTICLE VII. GENERAL STANDARDS**

In reviewing applications for a subdivision, the Board shall consider the standards contained in Title 30-A, M.R.S.A., Section 4404, as amended, which shall be set forth in a Subdivision Application Checklist maintained by and accessible through the Planning Board and the Code Enforcement Officer. The Planning Board shall determine that all standards have been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant. Additional standards required by the Town of Carmel as set forth below must be met, unless waived by the Planning Board.

- 7.1 Conformance with Comprehensive Plan.** All proposed subdivisions shall be in conformity with the Comprehensive Plan of the municipality and with the provisions of all pertinent state and local codes and ordinances.
- 7.2 Lots in excess of forty (40) acres.** Pursuant to Title 30-A, M.R.S.A. Section 4401(4)(C), lots of forty (40) acres or more shall be counted as lots for the purposes of all subdivision review in the Town of Carmel.
- 7.3 Lots.**
- A. All lots shall meet the minimum requirements of the Town of Carmel's Land Use and Zoning Ordinance.
  - B. Wherever possible, side lot lines shall be perpendicular to the street.
  - C. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision.
- 7.4 Roads and Streets.**
- A. Upon completion of road and street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a licensed professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Municipal Officers.
  - B. Subdivision roads shall be logically related to the topography and existing public roads so as to produce usable lots, reasonable grades, safe intersections, and safe and convenient traffic distribution.
  - C. No road right-of-way shall be less than 50 feet in width for a service street and 66 feet for a rural road or collector street and may be required to be more if a greater street width is warranted in the opinion of the Board.
  - D. Dead-end roads shall be provided with a turn-around roadway at the closed end with a minimum radius of 60 feet from the center to the outside edge of the right-of-way.
  - E. No horizontal curves shall have a center line radius of less than one hundred and fifty feet, except turn-arounds on a dead-end-street. For changes in grade exceeding one per cent, a vertical curve shall be provided insuring a minimum sight distance of one hundred and fifty feet.

- F. Grades of all streets shall conform in general to the terrain and shall so far as practicable not exceed ten per cent.
- G. Intersecting property lines at street intersections shall be joined by a curve of at least a twenty-foot radius.
- H. Roads and streets should be laid out to intersect as nearly as possible at right angles. No street shall intersect another with an angle of less than sixty degrees. Streets entering opposite sides of another street shall be laid out either directly opposite one another or with a minimum offset of one hundred fifty feet between their center lines.
- I. Where the topography is such as to make difficult the inclusion of any utilities or other facilities within the public area so laid out, the preliminary layout shall show the boundaries of proposed permanent easements over or under private property. Such easements shall not be less than fifteen feet in width and shall have satisfactory access to existing or proposed public ways. Watercourses proposed for public control shall have a permanent easement of not less than twenty feet.
- J. The roadway or traveled way exclusive of grass strip and sidewalk areas shall have a width of at least twenty-four feet. At the discretion of the planning board additional width may be required.
- K. All subdivision roads and roads connecting subdivision roads to town maintained roads shall be constructed in accordance with the following specifications:
  - a. All topsoil, loam, blue and marine clay, muck and stumps and other improper road foundation material must be removed from the limits of the road bed to depth of at least 18 inches or to suitable sub-base. Topsoil shall be removed from areas that will be filled. Loam or improper road foundation materials must be excavated and replaced with bank-run gravel or broken rock.
  - b. All roads shall be crowned  $\frac{1}{2}$  inch per foot from the center line with the exception of banked curves.
  - c. The base course shall consist of bank-run gravel, free from loam or organic matter to a depth of 18 inches.
  - d. The finish course shall consist of crushed stone and fine gravel not to exceed  $\frac{3}{4}$  inches in diameter to a minimum depth of six inches.
- L. All proposed drainage facilities and culverts shall be installed. Natural water courses shall be cleaned and increased in size where necessary to take care of storm runoff. Drainage ditches at least three feet in width and sixteen inches in depth at their midpoint below center line grade shall be constructed in the street right-of-way on both sides of the roadway. Culvert sizes and lengths shall be approved by the Road Commissioner before installation.
- M. The roadway shall be graded to the final grade in accordance with the profile and cross-section submitted, and the as-built construction shall be plotted thereon.

- N. All utilities to be placed underground where feasible (at the discretion of the planning board.)
- O. PAVING: Once inspected, the roadway will be paved 20 feet wide with 19 mm bituminous asphalt mix that will meet the MDOT specification at a thickness of 2 inches. Pavement will be rolled to MDOT specifications. Followed by surface paving 20 feet wide with 9.5 mm bituminous asphalt mix that will meet the MDOT specification at a thickness of 1.5 inches.

## **7.5 Mobile Home Parks**

Proposed new mobile home parks and expansions to existing mobile home parks which would constitute a subdivision as defined shall comply with the provisions of this Ordinance and the Town of Carmel's Land Use and Zoning Ordinance, and the following:

- A. The mobile home park will be designed so that each mobile home is placed on a defined lot clearly marked having access from a roadway within the mobile home park. The roadways and lots will be laid out to provide safe and convenient access to every mobile home lot. The lot layout will be designed so that the vehicular access to each lot is from the internal road system of the mobile home park and not from existing public streets.
- B. Each lot within in a mobile home park shall be of such dimensions to provide for two (2) off-street parking spaces. Each parking space shall contain a minimum of 200 square feet. The Planning Board may require additional parking areas within the mobile home park.
- C. Lots within mobile home parks shall meet the following lot size standards: (1) 6,500 square feet per lot for lots served by public sewer; (2) for lots served by an engineered central, on-site subsurface wastewater disposal system, 12,000 square feet per lot provided the overall density of the mobile home park shall be no more than 20,000 square feet per lot, and the minimum lot width shall be 75 feet; (3) for lots served by an individual on-site subsurface wastewater disposal system, serving no more than two lots with individual septic tanks, a minimum of 20,000 square feet per lot, and a minimum lot width of 100 feet..
- D. The minimum lot area for mobile home parks shall be the combined area of its mobile home park lots plus (1) the area required for road rights of way; (2) the area required for buffer strips; and the area of any setbacks required under the Shoreland Zoning Ordinance.
- E. All streets or roads in a mobile home park must meet the road standards of this ordinance.
- F. A 50-foot buffer strip shall be provided along all property boundaries. No structures, streets or utilities may be placed in the buffer strip except that they

may cross a buffer strip to provide services to the park.

- G. No lot in a mobile home park may be sold or conveyed without prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement for a single-family dwelling as contained in the Town of Carmel's Zoning Ordinance.

## **7.6 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.

## **7.7 Traffic Conditions**

When conflicts exist between this Section and a Driveway Permit or Entrance Permit issued by the Maine Department of Transportation, the most stringent or restrictive shall apply. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians unless other factors make it not practical.

- 7.8 Privately-Owned Roads.** Where the subdivision streets are to remain privately-owned roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

## **7.9 Storm Water Management Design Standards**

- A. All stormwater improvements within the subdivision shall be designed to be in compliance with the most current standards of the Stormwater Management Law as administered by the Maine Department of Environmental Protection.
- B. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- C. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

## ARTICLE VIII. WAIVERS

- 8.1 Written Request.** Any requests for waivers from submission requirements and/or review standards shall be in writing. Waiver requests shall indicate the requirements requested to be waived and shall indicate what special circumstances exist that the required improvements or standards are not necessary to provide for the public health, safety, or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development.
- 8.2 Findings.** Where the Board finds, based on written justification by the applicant, and makes written findings of fact that due to extraordinary and unnecessary hardships that may result from strict compliance of this Ordinance, or where there are special circumstances of a particular application, certain required improvements or review standards are not necessary to provide for public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, it may waive this requirement, subject to appropriate conditions provided that the performance standards of this ordinance have been or will be met. Waivers may not be granted if the waiver will have the effect of nullifying the intent and purpose of the Comprehensive Plan, this Ordinance, or any other ordinance or law, or if this ordinance expressly does not allow a waiver from the requirement a waiver is sought. In granting waivers, the Planning Board shall require such conditions as will assure the purpose of this ordinance is met.
- 8.3 Recording.** When the Board grants a waiver to any of the improvements required by this ordinance, the Final Plan to be recorded at the Registry of Deeds, shall expressly note the waivers granted and the date which they were granted. The variance from any standards is not valid until the Plan is recorded in compliance with this Ordinance.

## ARTICLE IX. AMENDMENTS

- 9.1 Initiation of Amendments.** An amendment to this Ordinance may be initiated by:
- A. The Planning Board, provided a majority of the Board has so voted;
  - B. Request of the municipal officers; or
  - C. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- 9.2 Public Hearing.** The Planning Board shall conduct a public hearing on the proposed amendment. Notification of the hearing shall be posted in the Town Office at least thirteen (13) days before the hearing and published in a newspaper of general circulation in the municipality at least two (2) times with the date of the first publication at least twelve (12) days before the hearing and the date of the 2nd publication at least seven (7) days before the hearing. The Planning Board shall make a report and its recommendation on the proposed amendment within ten (10) days after the public hearing has been closed.

- 9.3 Adoption of Amendment.** An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

## **ARTICLE X. APPEALS**

- 10.1** An aggrieved party may appeal any decision of the Board under this Ordinance within 30 days from the date of that decision to the Carmel Board of Appeals, and then further to the Penobscot County Superior Court as allowed by statute and the Maine Rules of Civil Procedure.

## **ARTICLE XI. SUBDIVISION AMENDMENTS**

### **11.1 Fees.**

- A. The fee for any amendment when the number of lots remains the same, and there is no substantial change to roads or drainage systems, shall be \$25 plus planner fees.
- B. The fee for any amendment, when three or less new lots are created, shall be a \$25 publishing and notice fee and \$100 for the first new lot created and \$50 for each additional lot plus planner fees.
- C. The fee for amendment, when there are substantial changes to roads and drainage systems or more than three lots are created, shall be all fees and escrow accounts required by a new application.

### **11.2 Revisions to Approved Plans**

No change, 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, by the original sub divider at any time or within five years of the approval if other than the original subdivider, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with this ordinance. In the event the changes are considered de minimis, such as an alteration of lot lines between approved lots that does not make any lot non-conforming, the Planning Board may waive all submission requirements except for the submission of an amended plan, and may expedite the approval process, and is not required to conduct a public hearing on the amendment. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and this Ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.