

SUBDIVISION ORDINANCE OF THE TOWN OF DAMARISCOTTA

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SECTION I. PURPOSE

The purpose of this subdivision ordinance shall be to assure the comfort, health, safety, and general welfare of the people, to protect the environment, to provide for the orderly development of a sound and stable community, and to permit moderate growth according to the established character of the Town and shall further be the same as that written out in Title 30 MRSA, 1964, Section 4956 Subsection 3 as amended.

SECTION II. AUTHORITY AND ADMINISTRATION

A. Authority

1. This ordinance has been prepared in accordance with the provisions of Title 30 Maine Revised Statutes Annotated, 1964, Chapter 289, Section 4956 as amended.

2. This ordinance shall be known and may be cited as the "Subdivision Ordinance, of the Town of Damariscotta, Maine."

B. Administration

1. The Planning Board of the Town of Damariscotta, hereinafter called the Board, shall administer this ordinance.

SECTION III. VALIDITY

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

SECTION IV. APPLICABILITY, CONFLICT WITH OTHER ORDINANCES

This Ordinance applies to all Damariscotta subdivision lots not recorded in the Lincoln County Registry of Deeds sixty (60) days subsequent to day of adoption. Whenever the provisions of this Ordinance conflict with any other Town Ordinance, the stricter standard shall apply.

SECTION V. EFFECTIVE DATE

The effective date of this Ordinance is May 27, 1989.

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SECTION VI AMENDMENTS

This Ordinance may be amended in part or in whole by majority vote by Australian ballot at any regular town meeting.

SECTION VII DEFINITIONS

For the purpose of this ordinance, certain terms used herein are defined as follows:

- A. **Subdivision.** A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

In determining whether a tract or parcel of land is divided into 3 or more lots, this first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least 5 years prior to such 2nd dividing. Lots of 409 or more acres shall not be counted as lots.

For the purposes of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

- B. **Resubdivision.** Resubdivision shall mean the division of any existing subdivision or any change of lot size therein or the relocation of any street or lot line in a subdivision.
- C. **Exemptions.** Subsection 1 of the State Subdivision Law states that a number of divisions shall not be counted as lots, including divisions created by:
1. Inheritance
 2. Condemnation
 3. Order of a court

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4. Gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of the Subdivision Law (not a sale, but a Gift).
5. Transfer of an interest in land to an abutting landowner, however accomplished.
6. Land retained by the subdivider for his own use as a single family residence for a period of at least 5 years prior to the second dividing of a parcel.
7. Lots of 40 acres or more.

D. State Requirements. The state's Site Location Act, Title 38 MRSA Section 481-485 and 488-490, require that certain, large-scale developments, including some large subdivisions, obtain the approval of both the State Board of Environment Protection (BEP) and the Town Planning Board.

SECTION VIII - GENERAL PROVISIONS, REQUIREMENTS, DESIGN AND REVIEW STANDARDS FOR SUBDIVISION PLAN

A. General Provisions and Requirements

1. Whenever any subdivision is proposed or before any contract for the sale of or offer to sell such subdivision or any part thereof shall have been negotiated the subdividing owner or his agent shall apply in writing to the Board for approval of such subdivision.
2. No transfer of ownership shall be made of any land in a proposed subdivision until a Final Plan of such subdivision has been approved by the Board nor until a duly approved copy of such Final Plan has been filed with the Town Clerk and recorded in the Lincoln County Registry of Deeds.
3. Where strict conformity to the Subdivision Ordinance would cause undue hardship or injustice to the owner of land and a subdivision plan is substantially in conformity with the requirements of this ordinance the Board may consider waiver of some aspects of this ordinance provided that the spirit of the regulations and public convenience, health, and welfare will not be adversely affected.
4. No utility installations, no grading or construction of roads, no grading of land or lot, and no construction of buildings shall be done on any part of the land or lots within a subdivision until a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as

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provided in this Ordinance, nor until an attested copy of a Final Plan has been filed with the Town Clerk and recorded in Lincoln County Registry of Deeds.

5. Subdivision Fees: Fees of #250.00 plus \$50.00 for each lot. The Fees shall be payable, at final approval, to the Town of Damariscotta, and shall go into the General Fund of the Town.
6. Penalties: Any person who conveys any land by reference to a plan which has not been approved as required by this ordinance and recorded by the proper Register of Deeds, shall be punished by a fine of not more than \$10,000.00 for each lot conveyed.
7. Preservation of Natural Features: The Planning Board may require that a proposed subdivision plan preserve such natural features as trees, streams, water courses, and scenic views. The street and lot layout shall be adopted to the topography. Extensive grading and filling shall be avoided as far as possible. Open spaces may be required.
8. Land Not Suitable for Housing: Land susceptible to flooding and land not suitable for housing or street development shall not be accepted as part of a subdivision for residential purposes, but may be used, with the approval of the Board, for parks, playgrounds, or other open-space uses.
9. Easements for Natural Drainage Ways: Any natural drainage ways and their easements shall be so incorporated that no flooding will occur and all storm water will be disposed of properly.

B. Design Standards:

- (a) The arrangement, character, extent, width, grade, location of all streets and roads shall be considered in their relation to existing or planned street and roads, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such street.
- (b) Potential Town Roads. The design and construction of all streets and roads in this category shall comply with State Aid Road Specifications. For acceptance by the Town as a public road, the road must have a bituminous surface and be certified by the developer that its construction complies with State Aid Road Specifications.
- (c) All other roads shall be constructed and maintained to private road standards listed below. The Board may require additional road requirements based on the recommendations or the Road Commissioner, fire company or school board. Owner maintenance responsibilities shall be included in the owner organization charter.

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(d) The following minimum standards apply to Private Roads:

<u>Right of Way</u>	50 feet wide
<u>Clearing</u>	A minimum of 28 feet wide, leaving healthy trees between cleared area and outside edge of right of way.
<u>Grubbing</u>	Stumps and rocks over 6 inches in diameter must be removed.
<u>Road Width</u>	Minimum of 18 feet on finished top or travel lane, plus 2 foot shoulders.
<u>Culverts</u>	A size adequate to handle the flow of water.
<u>Gravel</u>	a. Sub-base - existing material grading. b. Base - Coarse material of 6 inch minus to be applied to a minimum of 12 inches deep and 18 inches or more over ledges.
<u>Ditches</u>	Adequate depth to handle the flow of water. Ditches and embankments to be seeded with conservation grass mix.
<u>Turn-around</u>	Adequate turn-around at end of dead end roads with a minimum diameter of 100 feet or with modification at the discretion of the Planning Board.
<u>Intersection</u>	Where the private road meets the public road, the point of intersection must be of sufficient width to allow for an unobstructed view and safe turning into <u>the traffic lanes</u> .

The Board may reduce the clearing and right of way requirements, when it determines that a lesser requirement would still clearly assure an adequate and safe roadway for the public and landowners.

2. Utilities: Easements for utilities across lots shall be provided where necessary and shall be at least twelve (12) feet wide.
3. Water System: Where possible and economically reasonable, water service with fire hydrants shall be obtained from the water company.

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4. Sanitary Sewage: Individual or private sewerage systems may be permitted in subdivision where it is economically infeasible to install public sewage disposal systems, provided infeasible to install public sewage disposal systems, provided that the installation complies with the regulations of the Maine Plumbing Code and is approved by the Plumbing Inspector.
5. Electrical Power and Telephone Systems: Whenever practicable the subdivider shall be encouraged to install underground conduits and other necessary subsurface structures to provide underground power and phone service.
6. Minimum Lot Size: Each lot or parcel of land shall comply with all other Town land use requirements and shall further have a minimum lot frontage of 150 feet on public or private roads excepting those lots fronting and gaining access from a cul-de-sac.

The cul-de-sac lots that lack the minimum 150 feet road frontage shall have a building restriction in the area between the edge of the cul-de-sac and between the place where the lot has attained a frontal width of 150 feet.

C. Review Standards & Finding of Fact

1. The Planning Board shall consider the following criteria and shall determine that a proposed subdivision:
 - a. Will not result in undue water or air pollution. In making this determination, the Board shall consider at least the elevation of the land above sea level and its relation to the flood plains; the nature of the soils and subsoils and their ability to support waster disposal; the slope of the land and its effect on effluents;
 - b. Has sufficient water available for the reasonably foreseeable needs of the subdivision, including potable water and fire control needs;
 - c. Will not cause an unreasonable burden on existing water resources;
 - d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

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- e. Will not cause unreasonable highway or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- f. Will provide for adequate solid and sewage waste disposal;
- g. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
- i. Is in conformance with all duly adopted regulations and ordinances;
- j. The subdivider has adequate financial and technical capacity to meet the above standards;
- k. Whenever situated in whole or in part within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the shoreline or water quality of that body of water and conforms to the provisions of the Damariscotta Shoreland Zoning Ordinance.
- l. Will not, alone or in conjunction with existing activities adversely affect the quality or quantity of ground water.
- m. All principal structures within the subdivision shall conform to the provisions of the Damariscotta Flood Plain Management Ordinance.

SECTION IX. SUBDIVISION APPROVAL PROCEDURES AND REQUIREMENTS

A. Pre-application Meeting

- 1. Prior to submitting a preliminary plan for subdivision, the applicant may appear informally at a regular meeting of the Board to discuss the proposed subdivision.

B. Preliminary Plan Submittal

1. Procedures and Action

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- a. An application for Preliminary Plan approval of a subdivision plan shall be submitted to the Planning Board at the regular meeting previous to the one at which the Plan will be considered.
- b. On receipt of the Preliminary Plan and Application, the Board shall issue the Applicant a dated Receipt.
- c. Within 30 days of a receipt of a Preliminary Plan application form, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- d. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in the newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- e. The Board shall, within thirty days of a public hearing, or within sixty days of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan, The Board shall specify in writing its findings of facts and reasons for any conditions and denial.
- f. When granting approval of a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - (1) The specific changes which it will require in the Final Plan;
 - (2) The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - (3) Whether a Bond will be required by the Board.
- g. Within not more than 12 months after issuance of such preliminary approval the subdivider or his agent shall submit an application for Final Plan.

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- h. No Final Plan may be submitted until after a Preliminary Plan has received approval.

2. Preliminary Plan Submission Requirements

- A. An application for approval of a preliminary subdivision plan shall be accompanied by:
 - (1) Seven (7) copies of a plan which shall show existing streets and boundary lines and shall be at a scale of not more than 100 feet to the inch (100-1"), except that a supplementary map showing the relationship of the parcel of land to be subdivided to other properties and road may be at a scale of not more than 500 feet to the inch (500-1").
 - (2) A copy of the deed from which the survey is based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 - (3) All covenants of the subdivision must be presented with the preliminary plan application.
 - (4) A copy of the letter of notification sent to abutting property owners of a proposed subdivision with the registered mail receipts attached to it.
- B. The Preliminary Plan shall show:
 - (1) Identification: The name of the subdivision, location and boundaries of the land to be subdivided, scale, north arrow, date, name and address of the record owner, subdivider, and designer.
 - (2) Lines: Street lines, a lot lines and reservations for public purposes including public utilities, drainage and other easements.
 - (3) Dimensions: All dimensions in feet and decimals of feet.
 - (4) Lots: Lines and dimensions, with numbers and lot letters in accordance with the prevailing policy of existing tax maps.
 - (5) Monuments: Reference monuments on all street corners and angles and street lines wherever in the opinion of the Board such monuments are necessary to properly determine the location on the ground.

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- (6) Parks and Open Space: Designation of the location, size, planting and landscaping of such parks, and open spaces as are required by the Board.
- (7) Topographic Map: The Subdivision plan will be superimposed on a United States Geodetic Survey topographic map enlarged to 8 1/2 X 11 inches format.
- (8) Location of Special Features: Natural and man-made, affecting the subdivision or giving it character, such as bodies of water, streams and water courses, swamps and marshes, wooded areas, specimen preservable trees one foot or more in diameter, houses, barns, shacks, and other significant features.
- (9) Sites: Sites, if any, for multi-family dwellings, shopping centers, churches, industry, or other non-public authorities for future construction or near the site.
- (10) Site Data Summary: Including total of residential lots acreage, total road acreage, and total common lot acreage.

C. Final Plan Submittal

1. Procedure and Action

- a. An application for Final Plan approval of a subdivision plan shall be submitted to the Planning board at the regular meeting previous to the one at which the Plan will be considered.
- b. On receipt of the Final Plan and Application, the Board shall issue the Applicant a dated Receipt.
- c. Within 30 days of receipt of a Final Plan application form, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- d. The Board shall determine whether to hold a public hearing on the Final Plan application. If the Board decides to hold a public hearing, shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time and place of the hearing in the newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- e. The Board shall, within thirty days of a public hearing, or within sixty days of a complete application, if no hearing is held, or within another

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time limit as may be otherwise mutually agreed by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions and denial.

2. Final Plan Submission Requirements

- a. The Final Plan of the subdivision shall be legibly and clearly drawn in ink at a scale of one hundred feet to the inch (100'=1") on mylar suitable for reproduction and seven blue line copies. Size of the sheet shall not measure more than two feet by three feet (2' x 3'). A Final Plan shall contain all the requirements of the Preliminary Plan and shall show:

(1) Certification:

The seal of a licensed engineer or certification by a land surveyor attesting that such Final Plan is substantially correct.

(2) Streets:

Names, cross sections at 100-foot stations or as required by the Planning Board and profile at center line and side lines, all elevations based on datum plan established by the U.S.G.S. Street widths of right-of-way and pavement, radii of all curves, walks, curbs, gutters, culverts, etc.

(3) Drainage, Existing and Proposed: (A) Kind. (B) Location. (C) Profile, cross-sections, and invert elevations.

(4) Sanitation, Existing and Proposed: (A) Location, size, profile, cross-sections, elevations, and inverts of sanitary sewers, or (B) Description, plan, location, and dimensions of other means of sewage disposal, with evidence of soil suitability, including percolation tests and classification of soil types suitable for on-site sewage disposal.

(5) Water Supply and Other Utilities: On and adjacent to the tract showing location, proposed connections, type, and size of water and gas lines, locations of fire hydrants, electric and telephone poles and conduits, and street light standards.

b. Other Documents to Accompany Final Plan:

- (1) Where applicable, a Final Plan shall be accompanied by certification by a duly authorized engineer that the design of sewer and water facilities and streets and utilities in the proposed

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subdivision conform to the requirements of this ordinance. The cost of inspection shall be borne by the developer or subdivider.

- (2) A statement from the soil scientist that he has reviewed the Final Plan and certifies that a septic system can be built on each lot.
- (3) Protective Covenants: In form for recording.
- (4) Subdivision Owners Organizational Charter. If owners are to share commonly owned land within the subdivision or share in the use and maintenance of common water supply, sewage treatment system or access road, organization documents of the organization authorized to conduct these functions, and documents specifying owners' responsibilities and liabilities.
- (5) A Statement from the Water Company if they supply the water:
- (6) A Bond, if required by the Board.
- (7) Other Data: Such other conveyances, certificates, affidavits, endorsements, or deductions as may be required by the Planning Board in the enforcement of this Ordinance.

3. Final Approval and Filing

- a. Upon voting to approve the subdivision, the Board shall sign the Final Plan and four copies by the signature of a majority of the members of the Board. They mylar and one copy of the Final Plan shall be recorded in the Lincoln County Registry of Deeds; one copy is to be delivered to the Town Clerk; one copy will be retained by the Board; and one copy will be retained by the developer.
- b. The delivery of the mylar and one copy of the Final Subdivision Plan to the Lincoln County Registry of Deeds and one copy filed with the Town Clerk is the responsibility of the owner of record.
- c. A subdivision permit shall expire if not recorded in the Lincoln County Registry of Deeds and filed with the Town Clerk within 90 days of final approval.

Section X. BOND REQUIREMENT, WAIVER AND RELEASE

A. Bond Requirement

The subdivider shall file with the Board at the time of submission of the Final Plan:

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1. A bond in an amount sufficient to cover the cost of the construction of streets, paving, storm drainage, utilities, sewer systems and water supply approved as to form and surety by the Town of Damariscotta, and conditioned upon the completion of such streets etc., within two years of the date of such bond.
2. or, cash placed in escrow for the above as the Planning Board shall require.

B. Bond Waiver

The Board may at its discretion waive the above requirements to post bond or cash in escrow and grant conditional approval.

C. Release of Bond

1. Before voting to release the subdivider's check or performance bond, the Board of Selectmen shall determine to its satisfaction, in part by a written certification of the Planning Board Chairman, that there have been submitted to them by the subdivider or his agents, written statements, signed by:
 - (a) a duly authorized engineer paid for by the subdivider that the sewer and water facilities and streets and utilities in the proposed subdivision have been constructed and conform to the requirements of this ordinance and of any state or federal law that applies; and that all permanent bounds and monuments on street lines and on lot lines have been installed and are accurately in the locations designated on the Final Plan.
 - (b) the Town Road Commissioner certifies that the streets and storm drainage have been constructed in conformity with the requirements of this ordinance.

SECTION XI APPEALS

An appeal may be taken, within 30 days from the Board's decision on the Final Plan, by any party to Superior Court in accordance with Rule 80B of the Rules of Civil Procedure.