

Town of Palmyra Subdivision Ordinance

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Adopted at Town Meeting March 14, 2020 and revised at Town Meeting March 12, 2022

Article 1. General

Section 1. Title:

This Ordinance shall be known as the Town of Palmyra Subdivision Ordinance and will be referred to herein as "this Ordinance".

Section 2. Authority:

This Ordinance has been prepared and adopted under the authority of Title 30- A MRSA Section 4403, sub. 2,

Section 3. Purpose:

The purpose of this Ordinance is:

- To provide for an expeditious and efficient process for the review of proposed subdivisions.
- To clarify the approval criteria of the State Subdivision Law, found in Title 30-A, M.R.S.A. Section 4404.
- To preserve and enhance the rural character of Palmyra.
- To protect the natural and cultural resources of Palmyra.
- To assure that a minimal level of services and facilities are available to subdivision occupants and that lots in the subdivision are capable of supporting the proposed uses and structures.
- To promote the development of an economically sound and stable community.
- To minimize the potential impact from new subdivisions on neighboring properties and on the municipality, and
- To ensure the safety, health, and welfare of the people of the Town of Palmyra.

Section 4. Applicability:

The provisions of this Ordinance shall apply to all subdivisions as defined in Title 30 - A, M.R.S.A. Section 4401, sub. 4.

Section 5. Effective Date:

The effective date of this Ordinance shall be the date of its approval by a majority vote of the voters at a Palmyra Town Meeting.

Section 6. Conflicts with other Ordinances:

Whenever a provision of this Ordinance conflicts with, or is inconsistent with, another provision of this Ordinance or statute, the more restrictive provision shall control.

Section 7. Validity and Severability:

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

Section 8. Availability:

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town Office.

Section 9. Application Forms:

The Town of Palmyra Planning Board shall develop application forms to be used by the applicants seeking subdivision approval.

Section 10. Amendments:

Amendments to this Ordinance may be initiated by a majority vote of the Select Board, or the Planning Board, or by a written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.

All proposed amendments shall be referred to the Planning Board for their recommendation. The Planning Board will hold a public hearing on all proposed amendments. The public shall be notified of the time, date, and place of the hearing at least fourteen (14) days prior to the date of the hearing.

An amendment to this Ordinance may only be adopted by a majority vote of the voters at a Palmyra Town Meeting.

Article 2. Review Criteria:

The Planning Board shall consider the following criteria, and before granting approval to a subdivision application, must determine that:

Section 1. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- The elevation of the land above sea level and its relation to the floodplain;
- The nature of the soil and subsoil and their ability to adequately support waste disposal;
- The applicable state and local health and water resources rules and regulations;
- The slope of the land and its effect on effluents; and
- The availability of streams for disposal of effluents.

Section 2. The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.

Section 3. The proposed subdivision will not cause an unreasonable burden on an existing water supply.

Section 4. The proposed subdivision will not cause unreasonable soil erosion, unmitigated stormwater runoff, or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

Section 5. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe intersections or other conditions with respect to the use of the highways or public roads existing or proposed.

Section 6. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on the Town, if Town services are used.

Section 7. The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if Town services are used.

Section 8. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat as identified by the Department of Inland and Fisheries and Wildlife or by the Town of Palmyra, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

Section 9. The proposed subdivision conforms with all the applicable standards and requirements of this Ordinance and other Ordinances. In making this determination, the Planning Board may interpret these Ordinances as required.

Section 10. The subdivider has adequate financial and technical capacity to meet all the Review Criteria and the standards and requirements contained in this Ordinance.

Section 11. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter 1, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Section 12. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

Section 13. Based on Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundary within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with the lowest floor, including the basement, at least one foot above the 100-year flood elevation.

Section 14. All fresh water wetlands within the proposed subdivision have been identified and delineated on any maps submitted as part of the application, regardless of the size of these wetlands. All wetlands shall be preserved.

Section 14-A. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

Section 15. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. All rivers, streams, or brooks shall be protected from any adverse development impacts. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or wetland as these featured are defined in Title 38, Section 480-B Subsection 9, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.

Section 16. The proposed subdivision will provide for adequate storm water management.

Section 17. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

Section 18. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

Section 19. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Planning Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A 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.

Section 20: In the event that Title 30-A, Section 4404 is amended, the amended criteria shall automatically be included for consideration by the Planning Board.

Article 3. General Administration

Section 1. Sale or Development of Property:

No person may sell, lease, develop, build upon or convey for consideration, or offer to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the Town of Palmyra Planning Board and subsequently recorded in the Somerset County Registry of Deeds. "Develop" shall include grading or construction of roads, grading of land or lots, or construction of buildings.

Section 2: Administration:

- a. The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.
- b. The Planning Board shall provide the Code Enforcement Officer (CEO) a copy of its decision on a subdivision application including all application materials.

Section 3. Burden of Proof:

The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable review criteria and standards contained in this Ordinance.

Section 4. Additional Studies:

The Planning Board may require the applicant, to perform additional studies or pay for the services of a consultant to review the entire or portions of the subdivision application. The cost to perform additional studies or pay for the services of a consultant shall be borne by the applicant, as provided for in the Town of Palmyra Fee Schedule.

Section 5. Rights Not Vested:

The submittal of an application to the Planning Board shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, M.R.S.A., Section 302. The formal review process shall begin upon written notification to the applicant that a completed application has been received.

Section 6. Joint Meetings:

If any portion of a proposed subdivision crosses municipal boundaries, the Town of Palmyra Planning Board shall follow the notice, meeting, and review requirements specified in Title 30-A, MRSA, Section 4401-4407.

Article 4. Pre-application Procedures

Section 1. Purpose:

The purpose of the Pre-application Meeting is for the applicant to present general information regarding the proposed subdivision to the Planning Board and to hear the Planning Board's comments regarding issues and concerns that may arise in the course of review.

Section 2. Procedure:

- a. The applicant shall submit 6 copies of the materials listed in section 3 to the Planning Board at least 14 days before a scheduled meeting of the Planning Board in order to be placed on the public agenda.
- b. The applicant shall make a verbal presentation to the Planning Board regarding the site and proposed subdivision.
- c. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the application.
- d. The Planning Board may discuss whether the proposal will fall under the jurisdiction of any other local ordinances or state laws, and determine a schedule for coordinating reviews.
- e. The Planning Board shall determine the contour intervals to be shown on the plan. (2ft contours are generally recommended.)

Section 3. Required Submissions:

- a. A sketch plan shall show in simple sketch form the proposed layout of roads, lots, buildings, and other features in relation to existing site conditions. The sketch plan does not have to be an engineered plan. It may be a freehanded pencil sketch, but should be roughly to scale.
- b. A copy of the Tax Assessors map of the site and surrounding area.
- c. A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- d. A map of the County Soil Survey showing the area of the proposed subdivision including an explanation of each soil type found on the site.

Section 4. Site Inspection:

- a. The Planning Board shall vote to schedule or forego an onsite inspection of the proposed project. The Planning Board shall schedule the date and time of the site inspection at the Pre-application Meeting or at another time. The Planning Board shall post the date, time, and place of the site inspection at the Town Office.
- b. The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection.

Article 5. Subdivision Application and Review

Section 1. Multi-Stage Process:

Subdivision review may be conducted in two stages, in order for the Town and applicant to comply with the requirements of this Ordinance in an efficient manner, to wit: If a proposed subdivision will require the design of roads, drainage structures, or public water or sewer connections, or will require additional approvals from state or federal agencies, the Planning Board may issue a conditional approval, with final review of the plan at a later date.

Section 2. Application and Review Process:

- a. All applications shall be made on Subdivision Application Forms available from the Town Office, and contain the elements listed in section 3 of this article. Applications shall be submitted to the Town Office together with fees as provided in section 3 of this article. The Town Office shall issue a dated receipt for the application and fees.
- b. Consideration of the application shall be placed on the agenda for the next Planning Board meeting, provided that the application must be submitted no less than fourteen (14) days prior to the meeting.
- c. The Planning Board shall determine whether the application is complete. If the application is complete, the Planning Board shall notify the applicant in writing within 30 days after receiving the application. If the application is not complete, the Planning Board shall provide a written listing of the items that are missing for a complete application within 30 days after receiving the application.
- d. Within twenty (20) days after the Planning Board determines that the application is complete, and before taking final action thereon, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in a local newspaper at least twice, the first time to be at least fourteen (14) days in advance of the hearing. Notice shall also be posted in an accessible, public location and sent, via certified mail, to the applicant and to each owner of property abutting or adjacent to the proposed development. The Town Office will also send, via certified mail, written notice to the Town Clerk and Planning Board of any town that abuts or includes a portion of the proposed subdivision, and to any drinking water supplier whose source water protection area falls within the area to be subdivided. Landowners shall be considered to be those against whom property taxes are assessed. Failure of any person to receive a mailed notice of application in a timely manner shall not necessitate another notification, or invalidate any action of the Planning Board.
- e. At the public hearing, the applicant and members of the public shall be given the opportunity to present testimony or evidence in support of or opposed to the application. The hearing shall be informal, at the discretion of the Planning Board Chairman, allowing the Planning Board and attendees to ask questions of the applicant.
- f. Within thirty (30) days of the public hearing, or within such other time limit as may be mutually agreed to, the Planning Board shall prepare written findings of fact and conclusions that show that the subdivision will or will not meet the review criteria in

Article 2 of this Ordinance, and shall approve, approve with conditions, or deny the application. The Planning Board may consult with the applicant or any other party in completing its review. In all instances, the burden of proof shall be upon the applicant. The Planning Board shall inform the applicant of its decision in writing, and in cases of denial or approval with conditions, reasons for such action shall be stated. A copy of the Planning Board's decision shall be filed with the CEO.

- g. When an application is found to require additional information or studies or detailed engineering design, or when state or federal permit(s) have not yet been issued, the Planning Board shall make its approval conditional on items yet to come. The conditional approval shall give the applicant a specified number of days in which to provide the required information, at which time the Planning Board shall conduct the final plan review. No construction or other development work may commence prior to final approval. The final plan will be accompanied by copies of permits received by the applicant from state or federal reviewing authorities.
- h. The Planning Board shall make a record of any conditions of approval remaining after final review of the plan and shall require the conditions to be attached to the plan to be recorded at the Somerset County Registry of Deeds.
- i. At the time of final approval, the Planning Board may permit installation of public improvements within the subdivision to proceed in phases, with development of individual lots conditional upon completion of each phase of improvements.
- j. Construction of roads or other infrastructure must be commenced within 12 months of final approval and completed within 24 months, unless a phased development plan is approved by the Planning Board. After 24 months, the approval shall be deemed to have expired. Any deviation from the project as approved shall require a revision to the approval.

Section 3. Submission requirements:

The following information is required for subdivision applications. This listing shall not be construed as limiting the authority of the Planning Board to require additional submissions on a case-by-case basis.

- a. Application Fees: As provided for in the Town of Palmyra Fee Schedule.
- b. Application information. An applicant for subdivision review shall provide the following information on the Subdivision Application Form:
 - i. Subdivision name;
 - ii. Name, address, phone number of applicant;
 - iii. Name, address, phone number of owner;
 - iv. Name, address, phone number of authorized representative;
 - v. Name(s), registration number, address, phone number of engineer, surveyor, architect, landscape architect or planner;
 - vi. Legal interest of applicant in property, supported by photocopy of a deed, option to purchase, contract to purchase, or a lease;
 - vii. Tax Map and lot numbers;
 - viii. Acreage to be developed;

- ix. Description of covenants, deed restrictions, easements, or rights-of-way existing or planned;
 - x. Existing use of the property;
 - xi. Name, address, map and lot number of abutting landowners;
 - xii. Variances requested from the appropriate issuing authority.
- c. Subdivision plat requirements. The subdivision plat drawing must consist of three paper prints plus one mylar (reproducible) copy, with a maximum size of 30 inches by 48 inches and at a scale of between one inch equals 40 feet, and one inch equals 100 feet. An additional six (6) copies shall be provided at a reduced scale for Planning Board use. The plat must include the following:
- i. Date, title, scale, North arrow, name of project.
 - ii. A boundary outline with dimensions and lot area, in relation to surrounding streets, walls and adjoining and land uses.
 - iii. Locations of existing buildings and other structures, fire hydrants, streetlights, utility poles, underground water and sewer facilities.
 - iv. Location of existing topographic and natural features, including rivers, streams, and other water bodies, wetlands and vernal pools, floodplain, critical natural areas, and high value plant and animal habitat identified by the Maine Natural Areas Program.
 - v. Location and dimension of all proposed internal lot lines.
 - vi. Location map.
 - vii. All existing and proposed rights-of-way and easements.
 - viii. Location and accurate dimensions and detail of proposed streets (including plans, profiles and cross-sections), sidewalks, parking lots, water and sewer utilities, drainage structures – may be deferred to final review.
 - ix. Location of any proposed water supply wells and test pits or proposed septic system areas.
 - x. Identification and boundaries of any shoreland zoning districts affecting the property.
 - xi. Space on the plat to print any variances granted or conditions of approval that cannot be met by the time of final approval.
 - xii. A signature block for approval by the Planning Board.
- d. Supporting plans and documents, seven (7) copies. Documents in a binder, three (3) hole punched and numbered consecutively:
- i. Evidence of the quality and quantity of proposed water supply. If a public water supply system other than the Newport Water District is proposed, a copy of a wellhead protection plan shall be provided.
 - ii. Evidence of the adequacy of proposed sewage disposal systems, including an HHE-200 for any proposed lot with a subsurface wastewater disposal system.
 - iii. A stormwater management plan for any structural improvements, including location, elevation, layout of catch basins, and other surface and subsurface drainage features. If the development will create more than 10,000 square feet of new impervious surface, the stormwater management plan must be designed by a registered professional engineer – may be deferred to final review.
 - iv. A topographical plan, at 2-foot intervals, showing existing and proposed contours and finished grade elevations.

- v. A landscape or scenic preservation plan (see Article 7, section 15.)
 - vi. An erosion control plan, or phosphorous control plan if the subdivision is within the direct watershed of a great pond.
 - vii. Identification of soils with severe or very severe limitations for the type of development proposed in accordance with the USDA medium intensity soil survey for Somerset County. If soils identified by the survey as having severe or very severe limitations are within the area to be developed, the Planning Board may require a high intensity soil survey.
 - viii. Locations of any critical areas of natural or cultural resources, including but not limited to areas of potential archeological significance, farmland, wetlands, vernal pools, critical wildlife habitat, floodplains, and the location of any sand and gravel aquifers. If any of these areas will be affected by the development, one (1) copy of a plan to mitigate or manage impacts to the resource shall be supplied.
 - ix. Construction schedule, costs, and proposed performance guarantee arrangement for any public improvements. Financial arrangements (e.g. homeowners' association) for the maintenance of private roads, stormwater management facilities and other public improvements – may be deferred to final plan review.
 - x. Any required permits from state or federal permitting authorities – may be deferred to final plan review.
 - xi. Any other exhibits or data deemed necessary by the Planning Board to evaluate the proposed development for compliance with the review criteria of this chapter.
- e. Signed statements from the following public officials:
- i. The Newport Water District regarding the capacity and conditions under which the District will supply water and approval of the size and location of mains, valves, and hydrants proposed, if applicable.
 - ii. The Fire Chief approving the features related to fire and emergency protection.
 - iii. The Superintendent of the Newport Sanitary District regarding the capacity and conditions under which the District will provide sewage service, or a statement relative to the capacity of the District's system to treat septic tank pumping.
 - iv. A professional engineer certified by the State of Maine, regarding the adequacy and design of drainage and street systems, both proposed and existing.
 - v. The Maine DOT, relative to security or traffic circulation, if required by the Planning Board.
 - vi. Any other agency or committee deemed appropriate by the Planning Board.
- f. If deemed appropriate by the Planning Board, escrow fees as provided in the Town of Palmyra Fee Schedule, which shall be deposited in a special escrow account designated for the subdivision application, and may be used by the Planning Board to hire additional independent consultants to review engineering and other technical submissions associated with the subdivision application, and to ensure compliance with the Town of Palmyra Zoning Ordinance and Subdivision Ordinance. If the balance of this special account is drawn down by 75%, the Planning Board shall notify the applicant, and require that the balance be brought back up to the original balance. Any balance in the escrow account remaining after a decision on the final plan application by the Planning Board shall be returned to the applicant. See also Article 3, Section 4, page 6 of this Ordinance and the current Town of Palmyra Fee Schedule.

Section 4. Revisions to Approved Plans:

- a. An application for a revision to a previously approved plan shall be submitted to the Planning Board at least 14 days prior to a scheduled meeting of the Planning Board. If the revision involves a modification to a condition imposed by the Planning Board; the addition of additional units or lots; or an expansion of the subdivision, then the procedure for a new application shall be followed.
- b. If the revision only involves minor modifications to the plan, the Planning Board may consider the request at the meeting.
- c. The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be revised or that adversely impacted by the proposed revision.
- d. The applicant shall submit a copy of the approved plans and six (6) copies of the revised portions of the plans. The application shall include enough supporting data to allow the Planning Board to make a decision that the proposed revision meets the review criteria.
- e. The Planning Board shall vote to approve the revision, deny the revision or approve the revision with conditions. The Planning Board may vote to require that additional information be submitted in order to ensure that the review criteria are met.
- f. The applicant shall record any subdivision plan revision approved by the Planning Board according to Title 30-A MRSA, Section 4407.

Article 6. Post-Review Activities and Enforcement

Section 1. Appeal of Decision:

- a. If the Planning Board takes final action that is objectionable to the applicant, an abutting landowner, or any aggrieved party, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of this Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within thirty (30) days of the date of decision.
- b. Board of Appeals shall conduct an appellate review to determine whether a reasonable factual basis exists to support the Planning Board's decision or that the Planning Board's decision was clearly contrary to the provisions of this Ordinance. The Board of Appeals may sustain a Planning Board decision or may remand the application to the Planning Board for further review. When a Planning Board decision is remanded, the Board of Appeals will articulate both the factual premises and the reasoning that support the order for further review.
- c. The Board of Appeals is also authorized to hear variance appeals under this Ordinance. Variance appeals may only be taken from provisions relating to dimensional standards. Variance appeals shall be conducted according to the procedures and standards of Article 6, Section 2 of The Town of Palmyra Zoning Ordinance and 30-A MRSA, section 4353.
- d. The decision of the Board of Appeals may be appealed by any aggrieved party to Somerset County Superior Court within thirty (30) days of the date of the Board of Appeal's decision.

Section 2. Development in Accordance with Approved Plans:

- a. Development of an approved subdivision shall take place strictly in accordance with the plan as approved by the Town of Palmyra Planning Board. The Code Enforcement Officer shall certify to the Planning Board that development has been completed in accordance with the Planning Board's approval.
- b. Upon completion of any public improvements contained in the subdivision, the applicant shall provide a copy of as-built plans to the Planning Board.

Section 3: Performance Guarantees.

A performance guarantee shall be required for all public improvements proposed for the subdivision. The applicant shall submit a proposal for the performance guarantee at the time of plan review. A list of all proposed public improvements including the estimated cost for each shall be submitted with the performance guarantee.

- a. The performance guarantee shall be in the form of one or more of the following:
 1. A certified check, in an amount equal to the expense of installing the public improvements, made payable to the Town of Palmyra.
 2. A performance bond, in an amount equal to the expense of installing the public improvements, and made payable to the Town of Palmyra.

3. A conditional agreement with the Town, whereby no lot in the subdivision may be conveyed until the applicant completes all public improvements as approved.
 4. An irrevocable letter of credit from a bank or other lending institution for the expense of installing the public improvements, which shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.
- b. The Planning Board shall approve the form, content, and terms of the performance guarantee. The terms established by the Planning Board shall be provided in writing to the applicant and included as a condition of approval of the subdivision application.
 - c. Prior to the release of any portion of the performance guarantee by the Select Board, the Planning Board shall determine that the proposed improvements meet or exceed the design and construction requirements specified in this Ordinance and the approved plans. The Planning Board shall base its decision upon the inspection reports provided by the applicant that they obtain from independent third party inspection/engineering firms. Refer to Section 4 below.
 - d. The Planning Board may recommend to the Select Board to release a portion of the performance guarantee upon a showing by the applicant that under a phased buildout plan approved by the Planning Board, a significant portion of the required improvements have been completed to the satisfaction of the inspecting official.

Section 4. Inspection Requirements.

- a. The applicant shall notify the Town Office in writing prior to commencing construction of public improvements.
- b. The applicant will be responsible to provide inspection/testing reports to the Town Office from independent third party inspection/engineering firms for the public improvements. The applicant shall also notify the Town Office when on site inspections are scheduled. The Town Office shall keep a record of all inspection/testing reports. The Town Office may have a designated individual or the Code Enforcement Officer (CEO) inspect the public improvements at their discretion. The designated individual or CEO shall not interfere with the work progress of the public improvements while inspecting.
- c. If the Town inspector finds, upon inspection of the public improvements, that any of the required improvements have not been constructed in accordance with the plans approved by the Planning Board, they shall so report in writing to the Planning Board, Select Board, and the applicant. The Select Board shall take any steps necessary to preserve the Town's rights.
- d. The Planning Board is only authorized to approve any form of modifications if during the construction of the required public improvements it appears to be necessary or desirable to modify the design, due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Planning Board shall issue any approvals under this section in writing. For major modifications, such as relocation of rights-of-way or property boundaries, the applicant shall also need to obtain approval from the Planning Board prior to modifying the design.

- e. Upon completion of an intended public street and prior to a vote by the Select Board to submit a proposed town way to a town meeting, the Planning Board may require a written certification signed by a professional engineer registered in the State of Maine, certifying that the proposed street meets or exceeds the design and construction requirements. The certification shall be at the expense of the subdivider.

Section 5. Enforcement of Violations:

- a. Any person, firm, corporation, or other legal entity who conveys, offers, or agrees to convey any land in a subdivision that has not been approved as required by this Ordinance shall be subject to enforcement and penalty provisions as stated in Title 30-A MRSA, section 4452. The town may institute proceedings to enjoin the violation of this Ordinance and may collect attorney's fees and court costs if it is the prevailing party.
- b. No public utility company of any kind shall serve any lot in the subdivision for which the Planning Board has not approved a final plan.

Article 7. Performance Standards

Section 1. Intent and application of performance standards:

The performance standards contained in this section are intended to demonstrate compliance with the review criteria of Article 2. Compliance is evidence of meeting the review criteria. An applicant may apply for a waiver from performance standards (unless otherwise prohibited) from the Planning Board at the time of review. The Planning Board may grant a waiver only under one of the following conditions:

- A particular standard is not practicable due to unique features of the site or development,
- An alternate design or approach will provide a more effective way to meet the review criteria or achieve the objective of the performance standard.

The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request as part of the application. The Planning Board shall act on any waiver requests prior to consideration of the full application. If the Planning Board finds that the request does not meet the waiver criteria, the applicant shall amend the application as required. The Planning Board may vote to suspend the review of the application until such time that the applicant provides any information or design changes necessary as a result of not obtaining a waiver.

Section 2. Requirements for Lot Design:

- a. The following general lot requirements shall not be waived:
- | | |
|----------------------------------------|---------------------|
| Minimum Lot Size (per family dwelling) | 1 acre |
| Minimum Street Frontage | 200 continuous feet |
| Minimum Lot Depth to Width Ratio | 2 to 1 |
| Maximum Lot Depth to Width Ratio | 5 to 1 |
| Side Property Line Setback | 25 feet |
| Rear Property Line Setback | 25 feet |
| Front Property Line Setback | 50 feet |
- b. Mobile Home Parks, shall meet the general requirements of Article 7 Section 2 (a) except that the minimum lot size shall meet the following standards. These standards shall only be waived if their application violated 30-A MRSA Section 4358.
- The minimum lot size is 20,000 square feet, if each mobile home is provided with individual subsurface wastewater treatment systems;
 - The minimum lot size is 12,000 square feet if the mobile home park lot is served by a central on-site subsurface waste water disposal system approved by the Department of Health and Human Services, provided that the overall density of the mobile home park may be no more than one home for every 20,000 square feet; and
 - The minimum lot size is 6,500 square feet if the lot is served by a Public Water and Sewer system.
- c. All lots within a subdivision shall have at least two hundred (200) feet of frontage on a public or private road, or one hundred (100) feet fronting mobile home park roads. Flagpole-like extrusions ("flag lots") designed to provide access to roads or shoreline are prohibited.

Section 3. Monuments:

- a. A permanent marker shall be set at each corner of every lot sold or conveyed. The term "permanent marker" shall mean: 1) a granite monument or 2) a concrete monument or 3) an iron pin, or 4) a drilled hole in ledge.
- b. All other subdivision boundary corners and angle points as well as lot boundary corners and angle points shall be marked by suitable monumentation as required by the Maine Board of Registration of Land Surveyors.

Section 4. Water Supply:

- a. Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface disposal systems and other sources of pollution. The lot design shall permit the placement of wells, subsurface disposal systems and reserve areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
- b. The water supply for the subdivision and each lot shall be adequate to supply all the potable and other water requirements of the development. The applicant shall submit documentation from a hydrologist or a well driller familiar with the area, stating that adequate water is available to supply the subdivision. This process shall be supervised and verified by a public service operator.

- c. If a connection to the Newport Water District is proposed, the subdivider is responsible for the design and installation cost of all improvements necessary, including expansion of trunk lines if necessary, unless the district has established an impact fee system.
- d. If a licensed public water supply system is proposed, the location and protection of the source, and the design, construction and operation of the system shall conform to the Standards of the Maine Rules Relating to Drinking Water (10 144 A.C.M.R. 231). The applicant will demonstrate that an adequate wellhead protection zone exists and submit a wellhead protection plan. This process shall also be supervised and verified by a public service operator.

Section 5. Fire Protection:

- a. The subdivision shall be designed so that the responding fire department(s) shall have access to all developed areas within the subdivision and adequate provisions are made for the supply of water for fire suppression. The applicant shall review the proposed subdivision with the Fire Chief, and shall obtain a written statement from the Fire Chief indicating that the fire protection measures proposed for the subdivision have been approved. This statement shall be submitted with the plan application.
- b. The Fire Chief in making his/her review of the proposed fire protection measures shall consider and make recommendations concerning the following:
 - 1. The road is adequate for the passage of fire equipment.
 - 2. An adequate water supply is available near or within the subdivision to serve the density of the development.

Section 6. Wastewater Disposal:

- a. The applicant shall submit evidence of site suitability for a subsurface wastewater disposal system in compliance with the Subsurface Wastewater Disposal Rules of the State of Maine, prepared by a State licensed site evaluator. Common or shared subsurface wastewater disposal systems shall not be allowed, except within mobile home parks. All test pit locations shall be shown on the subdivision plan and be accompanied by a HHE-200 Form.
- b. If the subdivision will be served by the Newport Sanitary Treatment District, the subdivider will be responsible for all expenses incurred in assuring that the collection lines have adequate capacity for the intended use. Sizing of lines, pumps, valves, and other equipment shall be approved by the District prior to Planning Board review.

Section 7. Erosion Control:

All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions shall comply with the following standards:

- i. The site shall be developed so as to prevent soil erosion. All temporary and permanent erosion control measures shall be designed in accordance with construction practices contained in *Maine Erosion and Sediment Control BMPs*, published by Maine DEP (March, 2003 or as revised).
- ii. All temporary and permanent erosion control features shall be shown on the erosion control plan.
- iii. All earth-moving must be done by or under the supervision of contractors certified in erosion control practices by the Maine DEP.

Section 8. Stormwater Management:

All development shall be designed to minimize storm water runoff from the site. Where possible, existing natural runoff control features shall be retained in order to reduce runoff and encourage infiltration. A storm water management plan shall be developed for the site according to the following standards:

- i. The storm water plan shall be designed to utilize best management practices as described in the current edition of *Stormwater Management for Maine* (DEP, 2006 or as revised).
- ii. For projects involving structural treatments such as detention ponds, the storm water plan must indicate who is responsible for maintaining the structures through the course of their projected life.
- iii. The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and reduced use of deicing salts and fertilizers may be required.
- iv. If the proposed subdivision is to be located entirely or partly within the direct watershed of a great pond, the application will demonstrate that the export of phosphorous will be controlled as per standards in *Stormwater Management for Maine, Volume II* (Maine DEP, 2008 or as revised). In calculating the allowable level of phosphorous import, a “moderate” level of lake water quality protection is to be assumed.

Section 9. Waterbody Protection:

- a. The locations of all rivers, streams, brooks, wetlands, and vernal pools shall be identified and mapped on the subdivision plan. This shall include all perennial and intermittent streams and non-forested wetlands,
- b. Waterbodies shall not be developed or disturbed unless the applicant can provide evidence that no alternatives exist. Any development planned within 100 feet of the high-water line of any waterbody including wetlands shall require a plan which includes the following:
 - i. A description of the proposed development including the reason why this is the only alternative.
 - ii. Construction drawings of the disturbance area showing all structures, fill areas, vegetative disturbance, and erosion control measures.
 - iii. A list of state and federal permits required, if applicable.

Section 10. Ground Water:

Any development proposed within a mapped sand and gravel aquifer shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer. The Planning Board shall require the applicant to have the plan developed by a geologist which shows that the proposed development will not have an adverse impact upon the water supply of adjoining properties. The Planning Board, in making a determination that a plan will be required, shall consider the density of the development and existing conditions or problems within the area.

Section 11. Historic, Archeological, Wildlife Habitat, and Unique Natural Areas:

The subdivision plan shall show the locations of any historic and archeological sites, wildlife habitat, and unique natural areas. If any of these areas are located on the site, a protection plan shall be developed in accordance with the following:

- a. If any portion of the site is designated as a significant archeological or historic site by the Maine Historic Preservation Commission, or listed on the National Register of Historic Places or the town's comprehensive plan, the applicant shall develop appropriate measures for the protection of these resources.
- b. If any portion of the site is located within an area designated by the Maine Natural Areas Program as a unique natural area, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for its designation.
- c. If any portion of the site is within a high or moderate value waterfowl and wading bird habitat or a deer wintering area as identified by the Department of Inland Fisheries and Wildlife (IFW), the applicant shall consult with IFW or a qualified wildlife biologist and develop measures to protect these areas from environmental damage and habitat loss.

Section 12. Financial and Technical Capacity:

- a. The applicant shall demonstrate that they have adequate financial resources to complete the subdivision development. "Adequate financial resources" may be demonstrated by submission of an estimate of development costs to be incurred and a plan for providing or obtaining the resources necessary to meet the costs.
- b. A performance guarantee shall be provided adequate to cover the costs of all public improvements prior to final approval. "Public improvements" include, but are not limited to, streets, parking lots, drainage structures, fire protection facilities, and public water and sewer lines. The form and structure of the performance guarantee shall be as provided in Article 6.
- c. The applicant shall demonstrate that he or she has the technical capacity to complete the subdivision development. The applicant will provide names and qualifications of contractors, engineers, or other professionals retained for the development or describe the process by which such individuals will be hired.
- d. The applicant shall demonstrate arrangements for long-term maintenance of all land and facilities proposed for the general benefit of occupants of the development, including but not limited to common open space, landscaping, drainage systems, private roads and parking lots, community recreation facilities, or utility systems.

Section 13. Coordination with Regulatory Authority:

- a. The applicant shall show that the subdivision will conform to all ordinances of the Town of Palmyra including, but not limited to, Shoreland Zoning and Floodplain Management. Any permits required under local regulatory authority shall be issued prior to or concurrent with final plan review.

- b. The applicant shall show that the subdivision will conform to applicable state and federal regulatory authority. Permits required under state or federal authority shall be provided prior to final plan review or shall be made a condition of approval.

Section 14. Agricultural and Forest Resources:

- a. All farmland within a proposed subdivision shall be mapped as part of the application. “Farmland” shall be as defined in 30-A MRSA §4401(2-B).
- b. Whenever a proposed subdivision is located adjacent to property enrolled in the Maine Farm, Open Space, or Tree Growth Programs, suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites and agricultural or forest operations.
- c. Provisions to reduce conflicts between residential sites and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular subdivision. Some possible options include:
 - 1. A “no-build” buffer of 100 feet from the farm or forest site.
 - 2. A vegetative buffer along property lines.
 - 3. A disclosure notice, included in covenants for each lot, to inform the lot purchasers that agricultural and forest activities generate noise, dust, and odors.

Section 15. Rural Design and Landscape Standards:

Each subdivision proposal shall include a landscape or scenic preservation plan which shows how the lots, building sites, structures, and roads preserve the existing rural character of Palmyra. The plan shall incorporate the following elements into the overall design of the subdivision:

- i. Building sites shall be oriented so as not to obstruct scenic vistas, natural landscape features, topography, and natural drainage areas.
- ii. Road and lot layout shall conform to the existing topography.
- iii. Any existing public trails shall be maintained.
- iv. Existing wooded areas along property lines shall not be disturbed.
- v. Lots and buildings shall be laid out so as to enhance the privacy and rural atmosphere of the development.
- vi. Existing vegetation along all streams, ponds, and wetlands shall not be disturbed.
- vii. Farmland shall be preserved.

Section 16. Road and Access Provisions for Subdivision Lots:

- a. All roads will be designed and constructed in conformance with the Town of Palmyra *Road Standards for Subdivisions* (adopted March 12, 1988 and as amended), whether it is a new road to be built within the subdivision, or an existing road that provides access to the subdivision -- whether or not maintained by the Town. Because these standards are in the form of an ordinance enacted under the Town’s legislative authority, they shall not be waived by action of the Planning Board.
- b. Construction of roads to the standards of the ordinance in no way obligates the Town to accept the road for maintenance purposes. Roads may only be accepted by affirmative vote of Town Meeting.

- c. Within a mobile home park, road design and construction shall be in compliance with the standards of 30-A MRSA §4358(3).
- d. Parking lots associated with apartment buildings, mobile home parks, and similar development shall be designed and constructed using the standards of the *Town of Palmyra Commercial Development Review Ordinance*, Article 6, section 9.
- e. Access to individual lots from a state or town road shall be limited. Individual lots with frontage on town roads shall share driveway entrances or access internal roads. Individual lots shall be limited to a single point of access unless their road frontage exceeds five hundred (500) feet, in which case a second point of access is allowable.
- f. No road or commercial driveway shall be permitted to access Routes 2 or 152 within five hundred (500) feet of an existing connection with a road or commercial driveway, or any other public road within two hundred (200) feet. If the comprehensive plan or other locally-adopted transportation plan identifies specific access points, the subdivision shall conform to the plan's recommendations.
- g. All driveways and road entrances shall provide for adequate sight distance and drainage. Sight distance shall match or exceed ten (10) feet horizontal distance in each direction for every mile-per-hour of speed limit, or a minimum of three hundred fifty (350) feet for roads without a posted speed limit.
- h. The location of all driveways and road intersections shall be shown on the subdivision plan. Location and design of drainage structures shall be approved by the Maine Department of Transportation (DOT). Permit(s) must be provided at the time of final plan review or made a condition of approval.

Section 17: Solid Waste:

- a. The applicant shall provide an estimate of the nature and volume of solid waste to be generated by the subdivision. If the volume or type of solid waste generated would exceed the capacity of the town's solid waste system, the applicant shall show how the waste will be disposed of.
- b. The developer of a commercial subdivision shall make arrangements for disposal of solid waste generated by the subdivision independent of the Town's solid waste disposal system.

Article 8: Definitions

Construction of language:

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have their ordinarily accepted meaning, except to the extent that another meaning is clearly implied by the context of this Ordinance. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustrations, or table, the text shall control.

The word "person" included firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity. The words "he", "she", or "they" when used shall refer to the person or persons so designated regardless of gender.

The words "shall" or "will" are mandatory, the word "may" is permissive, The word "lot" includes "plot" or "parcel". The words "used" or "occupied", as applied to any land or building, shall be constructed to include "intended, arranged, or designed" to be used or occupied.

Abutter: The owner of any property with one or more common boundaries, or across the road or stream, from the property involved in an application.

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting of, denial of a permit under this Ordinance: a person whose land abuts land for which a permit has been granted; or any other person or group of persons who had suffered particularized injury as a result of the granting or denial of a permit.

Agriculture: The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products.

Applicant: The person applying for subdivision approval under this Ordinance.

Archeological or Historic Resource Areas: Areas identified by the Maine Historic Preservation Commission as having significant value as an historic or archeological resource and areas listed on the National Register of Historic Places.

As-Built-Plans: A supplemental subdivision plan that shows any changes, modifications, or revisions in the actual placement of construction of public improvements installed within the subdivision when it differs from the design submitted in the Final Plan.

Complete Application: An application which has been accepted by the Planning Board to have included submission of the required fee, all submission materials required by this Ordinance or a waiver request form.

Commercial Driveway: A driveway that has been designed for commercial use, or which is anticipated to have more than 20 trips per day on average.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the pond through sheet or concentrated flow without first passing through an upstream pond or river.

Dwelling Unit: Any part of a structure, through sale or lease, is intended for human habitation, including single-family and multi-family housing, condominiums, apartments and time-share units.

Easement: The duly designated privilege or right of use which one party may have in the land of another.

Engineer: The duly designated registered professional engineer of the subdivider.

Farming. Means engaging in farming in all its branches and the cultivation and tillage of the soil as a livelihood and includes dairying; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural commodities; or any practices on a farm that are incident to or in conjunction with these farming operations. For the purposes of this Title, "farming" does not include forestry, the growing of timber or the operation of a farm for recreational activity.

Farmland: As defined in 30-A MRSA, section 4401.2-B.

Freshwater Wetland: Freshwater swamps, marshes, bogs, and similar areas which are:

- a. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence wetland vegetation typically adapted for life in saturated soils; and
- b. 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 of this subsection.

Lot: A parcel of land capable of being occupied by one principal structure and its accessories, or used for one particular purpose and designated as such on a plat.

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

Plat: A map, plan, drawing, or chart on which a subdivision of land is shown.

Pre-application: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial inquiry and review prior to submitting an application for subdivision approval.

Prime Farm Soils: Soils identified as such by the US Department of Agriculture in the Soil Survey of Somerset County.

Principal Structure: Any building or structure in which the main use of the premises takes place.

Property Owner: The owner of land shall be determined to be that person listed as the current owner of record on the Town of Palmyra property tax assessment.

Public Improvements: The term shall include, but are not limited to: all roads, parking lots, fire protection structures and ponds; any structure or land proposed to be used in common by occupants of the subdivision or the community; water distribution and sewer facilities and equipment and storm drainage structures.

Public Road: A road maintained and owned by the State of Maine, Somerset County, or the Town of Palmyra. It shall not include any road or way that has been discontinued or abandoned.

Right-of-Way: Means a strip of land used or intended to be used for a street, pedestrian way, water main, sanitary or storm sewer main, or for other special use. In these Ordinances, every right-of-way established shall be shown on the plat separate and distinct from the lots and parcels adjoining such right-of-way, and not be included within the dimensions or areas of such other lots or parcels.

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.

Sight Distance: The distance of unobstructed vision experienced by a motorist entering a street from an access point. Sight distance is measured from an entry point ten (10) feet from the edge of the travelled way and three-and-one-half (3 ½) feet above the surface, to a point four-and-one-quarter (4 ¼) feet above street level in each direction.

Significant Wildlife Habitat: Areas identified by the Department of Inland Fisheries and Wildlife or by the Town of Palmyra (see above in Section 2) as having significant value as habitat for animals.

Setback: The distance between a legal boundary (right-of-way, lot line, or property line) and any part of a structure.

Subdivision: As defined in Title 30-A MRSA Section 4401.

Tract or Parcel of Land: All continuous land in the same ownership, provided that lands located 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.

Trail: A recreational access identified on the Town of Palmyra Master Trail Plan or a path or way created by easement, agreement or use by the public for some form of recreation including walking, hiking, biking, skiing, horse riding, or snowmobiling.

Unique Natural Area: Areas identified by the Maine Department of Agriculture, Conservation, and Forestry Natural Areas Program as having significant value as a natural area.

Waterbody: Any great pond, river, stream, brook, or wetland.

Wetland: Areas which are 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 are not part of a great pond, river, stream, or brook. Wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Working Farm: Any parcel of land where the primary use is *Farming* as defined in this section.

I certify that the original ordinance was adopted in 1992 and amended on March 11, 1995 and May 20, 1995.

I certify that the foregoing ordinance entitled TOWN OF PALMYRA SUBDIVISION ORDINANCE was adopted at Town Meeting on March 14, 2020.

Revisions

March 12, 2022 Town Meeting – major revisions adopted.

Diane White, Town Clerk