

CHELSEA SUBDIVISION ORDINANCE

I. Purpose and Authority

- A. This ordinance will pertain to all land within the boundaries of the Town of Chelsea. The purpose of this ordinance is to protect and preserve the public's health, safety and general welfare of the Town of Chelsea, and to assist the Planning Board in equitable implementation of these provisions. This ordinance is adopted by authority granted in 30-A M.R.S.A
- B. This ordinance shall be known and cited as the Chelsea Subdivision Ordinance.
- C. The Planning Board of the Town of Chelsea shall administer this ordinance.
- D. The Code Enforcement Officer (CEO) shall be responsible for enforcing this ordinance.

The CEO is empowered and duly authorized to enter into administrative consent agreements for the purpose of resolving violations of this ordinance and recovering fines without initiating court action.

- E. This ordinance shall be in effect from the time of its adoption by vote of a majority of the members present at Town Meeting.

II. Applicability

- A. Subdivision: the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, and buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.
 - 1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

- a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 - b. The division of the tract or parcel is otherwise exempt.
2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this ordinance, do not become subject to this ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
3. The following divisions do not create a lot or lots for purposes of these regulations, unless the intent of the transferor in any is to avoid the objectives of these regulations:
 - a. A division accomplished by devise does not create a lot or lots for the purposes of this definition.
 - b. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition.
 - c. A division accomplished by order of court does not create a lot or lots for the purposes of this definition.
 - d. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this section. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than 1/2 the assessed value of the real estate.
 - e. A division accomplished by a gift to the town if the town accepts the gift does not create a lot or lots for the purposes of this definition.
 - f. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this definition.
 - g. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

4. In determining the number of dwelling units in a structure, the provisions of this section regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
5. Parcels of land of more 40 acres or more shall not be counted as lots except where the lot or parcel from which it was divided is located entirely or partially within any shore land area as defined in MRSA Title 38, section 435 or within the town's Shore Land Zoning ordinance.

- B. Change to Subdivision: Any change of a recorded Subdivision plot or plan if such a change affects any street layout shown on the plot or plan, or area reserved for public use or any lot line, or any change if it affects any map, plot or plan legally recorded.

III. Conflict and Severability

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

IV. Administrative Regulations

- A. Whenever any subdivision is proposed and before any contract for sale, or negotiation for sale, or permit can be granted, the subdividing owner or his agent must apply in writing to the Planning Board for its approval before any actions are taken.
- B. No transfer or ownership shall be made of any land in a proposed subdivision until a final plan of the subdivision has been approved by the Planning Board, nor until a duly approved copy of the final plan has been filed with the Town Clerk.
- C. Where strict conformity to the Subdivision Regulations would cause undue hardship or injustice to the owner of land, and a subdivision plan is substantially in conformity with the requirements of the Ordinance provided that the spirit of this Ordinance and the public health and welfare will not be adversely affected, the subdivider may seek a variance from the Board of Appeals.
- D. The Register of Deeds shall not record any plot of proposed Subdivision until it has been approved by the Planning Board and approval is attested by the signatures of a majority of the members of the Planning Board on the original tracing of the final plan of the Subdivision.
- E. The minimum lot size of any lot in a subdivision (per Chelsea Minimum Lot Size Ordinance-6/28/94) shall be not less than 87,120 sq feet (two acres) and also have at least 200 feet frontage on the street.
- F. Within the boundaries of the plan, each lot that is to be offered for sale or sold, must have had a soil sample taken and proof must be provided that the soil is

suitable for some method of waste disposal allowed under the State Building Code.

- G. Whenever a Subdivision creates a private road, a Road Association will be required prior to final approval.

V. Subdivision Application Process

A. Application Process

1. A request for approval of a Subdivision shall be made to the Planning Board in writing and shall be ~~accomplished~~ accompanied by three (3) copies of a preliminary plan.
2. The application for approval of a preliminary plan shall be submitted seven (7) days before a Planning Board meeting and will be considered at a regular meeting of the Planning Board within thirty (30) days of the application.
3. The Planning Board shall after such consideration and within thirty (30) days of receipt of an application and preliminary plan, issue a written statement informing the subdivider of approval, disapproval, or conditional approval and of any changes required prior to the submission of the final plan.
4. The written statement shall be accompanied by one (1) copy of each revised drawing or data sheet with the Planning Board approval or conditions, if any, endorsed on each.
5. The failure of the Planning Board to issue a written notice of its decision, directed to the applicant within thirty (30) days after a proposed Subdivision has been submitted constitutes its disapproval.
6. Within not more than twelve (12) months after issuance of a preliminary approval, the subdivider shall submit a final plan or the preliminary plan shall be considered void.
7. The Planning Board may, before final approval or disapproval of a final plan, hold a public hearing on such plan.
8. The Planning Board shall consider a final plan at a regular meeting with thirty (30) days of submission of such plan.
9. The approval of a final plan by the Planning Board shall be attested on the tracing cloth or Mylar and three (3) copies by signature of a legal majority of members of the Planning Board.

B. Preliminary Plan Requirements

Listed below are the required plan submittals for Planning Board Preliminary Plan Review. The following is required to be submitted at least seven days prior to the date of the review hearing.

1. Submit three (3) blue line copies of each plan sheet at a scale of not more than 1'=50 ft and 9 copies at a reduced scale on 8 1/2" x " paper. Scale for remaining property shall be no smaller than 1 inch=500 feet.
2. On the plan show the following: Date, north point, and graphic scale.
3. Existing nearby subdivisions.
4. Outline of proposed Subdivision with any remaining portion of the property, if any exists.
5. Name of Subdivision and address of Subdivision.
6. Assessor's map and lot(s) of the Subdivision.
7. Lot numbers. The plan shall show lot numbers and indicate the type of permanent marker to be set or found at each corner of the tract also include all center line information on road plans.
8. Perimeter survey showing bearing's distances, monumentation, contour intervals, and elevations above sea level.
9. Number of acres in Subdivision, lot lines and sizes in compliance with the Minimum Lot Size Ordinance. Also show the acreage of any land not included in the Subdivision to be retained by the owner.
10. Building setbacks or envelopes, if required.
11. Limits or existing vegetation and type.
12. Physical features of special interest. Show contours at 5 foot intervals and all slopes in excess of 20 percent.
13. Existing water bodies, watercourses and wetlands or significant sand and gravel aquifers.
14. Boundaries and designations of all shore land zoning and other land use districts and boundaries of any flood hazard areas including the 100-year flood evaluation as depicted on the town's most recent flood plain "firm map panel".
15. Public and private right of way easements, existing and proposed.
16. Scale of plan in written and graphic data, and north point orientation.
17. Owner and applicant's name and addresses.
18. Name and address of individual who prepared the plan.
19. Abutters names and locations including any directly across an existing or proposed street or streets. Also show all parcels of land to be owned in common by the Subdivision lot owners or offered to the town.
20. Zoning boundaries and location of proposed sewer and water lines, if applicable—or septic system test pits for septic system suitability. Also show all temporary and permanent control features proposed for the site.
21. Location of any proposed open space areas, conservation or recreation areas.

22. Location of any essential or significant wild life habitat and endangered plants.
23. Location of any areas of scenic or natural beauty or historic sites of the Subdivision.
24. Identification of soil types from county soils maps.
25. Show locations and names of existing and proposed roads.

VI. Final Approval and Filing

- A. All information required for preliminary plan
- B. Existing and final proposed lines of streets, ways, lots, easements for utilities or drainage and public area with the Subdivision.
- C. Sufficient data to determine the exact location, direction and length of every street line easement, lot line and boundary line and to reproduce these lines upon the ground.
- D. Location of all permanent monuments wherever, in the opinion of the Planning Board, they are necessary to determine locations on the ground.
- E. Lot numbers and letters in accordance with the prevailing policy on existing tax maps.
- F. Designation of location, size, planting and landscaping of such parks, esplanades or other open spaces as may be proposed or prescribed.
- G. A phosphorus control plan with illustration on final plan demarking the areas affected to prevent unreasonable levels of phosphorus migration into the water body (if applicable).
- H. The embossed seal of a licensed engineer and certification by a certified land surveyor as well as any other licensed professional who prepared part of the plan attesting that the plan is correct (water, sewerage, drainage, must be designated by a licensed engineer).
- I. Map scale 1 inch: to 50 feet. Drawn on linen or mylar with three (3) dark line copier. Plan may be on one or more sheets numbered as an example 1 of 3.2 of 3.3 of 3.
- J. The final plan shall be accompanied by certification from authorized local public officials or agencies that the design of ~~or~~ sewer and drainage facilities, streets, and utilities in the proposed Subdivision conform to the requirements of all pertinent local codes and ordinances.
- K. A letter from the Fire Chief indicating his/her review of the plan and approval of the development.

- L. A list of improvements and maintenance thereof, with both capital and annual operating estimates, which must be financed by the municipality or school district. The applicant shall provide an estimate of the net increase in the

assessed valuation at the completion of the construction of the subdivision.

These lists shall include but not be limited to:

1. Schools, including busing
2. Street maintenance, snow removal and other public works
3. Police and fire protection
4. Solid waste disposal
5. Recreational facilities
6. Storm water drainage
7. Waste water treatment
8. Water supply
9. Utilities, including pole locations.
10. Postal Service

VII. Performance Standards

When adopting any Subdivision regulations and when reviewing any Subdivision for approval the Planning Board shall consider the following criteria and, before granting approval, must determine that:

- A. Pollution. The proposed Subdivision will not result in undue water or air pollution.
- B. Sufficient water. The proposed Subdivision has sufficient water available for the reasonably foreseeable needs of the Subdivision.
- C. Municipal water supply. The proposed Subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.
- D. Erosion. The proposed Subdivision will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. Traffic. The proposed Subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed Subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of transportation has provided documentation indicating that the driveways or entrances conform to Title 23 section 704 and any rules adopted under that section.
- F. Sewage disposal. The proposed Subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- G. Municipal solid waste disposal. The proposed Subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.
- H. Aesthetic, cultural and natural values. The proposed Subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland

Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

- I. Conformity with local ordinances and plans. The proposed Subdivision conforms with a duly adopted Subdivision regulation or ordinance, comprehensive plan, development plan or land use plan.
- J. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section.
- K. Surface waters; outstanding river segments. 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 I, 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.
- L. Ground water. The proposed Subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant the Subdivision is not in a flood-prone area.
- N. Freshwater wetlands. All freshwater wetlands within the proposed Subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
- O. Farm Land. All farmland within the proposed Subdivision has been identified on maps submitted as part of the application.
- P. River, stream or brook. Any river, stream or brook within or abutting the proposed Subdivision has been identified on all plans submitted as part of the application.
- Q. Storm water. The proposed Subdivision will provide for adequate storm water management.
- R. Spaghetti-lots prohibited. If any lots in the proposed Subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38 Section 480-B, none of the lots created within the Subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
- S. Lake phosphorus concentration. 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.
- T. Impact on adjoining municipality. 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.
- U. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12 Section 8869, Subsection 14.

- V. Postal Services: For any subdivision with six or more lots on a private road, the developer shall provide a pedestal cluster mailbox in a single structure on site in a convenient location so that it is accessible to all tenants or residents. Such mailbox system and location shall be approved by the local postmaster or representative of the postmaster.
- W. Fire Protection: To reduce the burden on Town services, a fire pond or cistern may be required at the discretion of the Fire Chief.

VIII. Performance Guarantees

- A. With the submission of the final plan, the subdivider shall submit either a certified check payable to the Town of Chelsea, or a faithful performance bond to the town of Chelsea issued by a surety company acceptable to the Town's Treasurer in an amount of money determined by the Planning Board. The check or bond will be equal to the total of all the costs of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities specified in the final plan, conditioned on the completion of all such grading, paving, storm drainage, water main, fire hydrant, sewer and street installations within (1) year from the date of the check or bond.
- B. Before releasing the check or bond, the municipal officers will determine to their satisfaction by a written certification signed by the Town Treasurer and the Planning Board Chair, that the subdivider has submitted to them, written statement signed by a Professional Engineer stating that streets and storm drainage have been constructed and completed in conformance with the final plan.

IX. Appeals

An appeal may be taken from the decision of the Planning Board to the ~~Appeals Board~~ Board of Appeals.

X. Fees

- A. The basic, non refundable fee for a Subdivision Application will be \$25.00 per residential lot of unit. This fee is due from the applicant at the time of submission.
- B. An additional fee, to be held in escrow paid by the applicant at the time of submission and drawn down by the Town when needed for expenses incurred in revision of the Subdivision.
 - 1. For minor Subdivisions of four lots of less, or Subdivisions requiring no roads, an escrow fee of \$25.00 per lot or unit.

2. For larger Subdivisions, over four lots or requiring construction of a road, an escrow fee of \$50.00 per lot or unit.

C. The amounts in section B1 and B2 will be drawn down by the Town for all Town expenses incurred in application review. Whenever the escrow amounts are drawn down more than 75 percent, the applicant will pay the escrow amount per lot or unit again. When the project review is complete, any amount remaining will be return to the applicant.

XI. Enforcement and Penalties

A. Any person or entity who owns controls or operates any building, property or facility that violates this ordinance shall be notified by the CEO, in writing, of such violation and provided sufficient time to correct said violation, as determined by the CEO. Any person or entity who continues to violate this ordinance after being properly notified shall be fined in accordance with Title 30-A M.R.S.A §4452. In addition, each day such violation(s) continues after proper notification shall constitute a separate offense.

XII. Amendments

XIII. Definitions

- A. **Applicant:** The person applying for Subdivision approval under these regulations.
- B. **Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.
- C. **Driveway:** A vehicular access way serving a dwelling unit.
- D. **Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.
- E. **Final Plan:** The final drawings on which the applicant's plan of Subdivision is presented to the Board for approval and which, if approved, must be recorded at the Registry of Deeds.
- F. **100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.
- G. **Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.
- H. **Net Residential Acreage:** The total acreage available for the Subdivision, as shown in the proposed Subdivision plan, minus the area for streets or access and the areas that are unsuitable for development.
- I. **Person:** Includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- J. **Preliminary Plan:** The preliminary drawings indicating the proposed layout of the Subdivision to be submitted to the Planning Board for its consideration.
- K. **Professional Engineer:** A professional engineer, registered in the State of Maine.

- L. **Certified Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.
- M. **Street:** Public and private ways such as alleys, avenues, highways, roads, and other right-of way, as well as areas on Subdivision plans designated as rights-of-way for vehicular access other than driveways.
- N. **Tract or Parcel of Land:** 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 the land on both sides thereof.
- O. **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. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This is also meant to include forested wetlands.

Attest:

Dated:

Enacted: March 30, 1976

Amended: February 28, 1989

Amended: Chelsea Minimum Lot Size Ordinance 6/28/94

Amended Subdivision Ordinance June 21, 2001

Amended: June 11, 2015