

Town of Freedom Subdivision Ordinance

Article I PURPOSES

The purposes of this ordinance are to assure the comfort, convenience, safety, health and welfare of the people in the town of Freedom, to protect the environment, and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the town of Freedom, Maine, the Planning Board shall consider the following criteria, and before granting approval shall make findings of fact that the provisions of this ordinance have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1 Will meet existing state and town standards for natural resource, water quality and flood protection and will not negatively impact the safety and health of town residents.
- 1.2 Will not cause soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- 1.3 Will not cause unreasonable public road congestion or unsafe conditions with respect to use of the public roads existing or proposed.
- 1.4 Will allow for adequate sewage waste disposal.
- 1.5 Will allow for adequate fire protection.
- 1.6 Will avoid adverse impact to state significant natural, cultural and historic resources.
- 1.7 Will not cause drainage problems on neighboring properties or roads.
- 1.8 Will be implemented by a subdivider who has adequate financial and technical capacity to meet the above stated standards.

Article II PRE-APPLICATION REVIEW

- 2.1 The applicant shall present to the Planning Board, at or before its regularly scheduled monthly meeting, a preliminary sketch plan showing the proposed layout of the subdivision and other features in relation to existing conditions. This is to assist the Planning Board in understanding the geographic context of the proposed subdivision. It is recommended that the sketch plan showing the outline of the proposed subdivision be superimposed on a topographic map or an aerial photograph of the land where it is located.
- 2.2 The subdivider or his/her duly authorized representative shall attend the meeting of the Board to present the sketch plan and other details of the proposed subdivision.
- 2.3 At this initial meeting, the applicant will describe the proposed subdivision and the Planning Board will review the proposal in light of the general purposes of this ordinance.
- 2.4 Within 30 days the Board will hold an on-site inspection of the property if deemed necessary, discuss with the applicant any potential concerns and/or recommendations concerning the subdivision, and offer an opportunity for the applicant to address these concerns.
- 2.5 The submittal or review of the sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title I, M.R.S.A., §302.

Article III SUBDIVISION PLAN

- 3.1 After the Planning Board has discussed with the applicant its recommendations or findings, the applicant will file a Subdivision Application along with a Subdivision Plan (see 3.6 below) to begin the process of formal review of the proposed subdivision. An application fee of \$50 payable to the Town of Freedom shall accompany the application.
- 3.2 Any changes in town zoning or land use requirements made prior to the subdivision application must be incorporated into the Subdivision plan and be included in the requirements to be met by the subdivision.
- 3.3 The Subdivision Plan shall show the final surveyed layout of the Sketch Plan and address concerns made by the Board based upon the Purposes in Article I of this ordinance and General Standards in Article V.
- 3.4 The Applicant shall notify by certified mail the owners of all property abutting the proposed subdivision of the pending proposal before the Planning Board and when the Planning Board will be considering the proposal for approval or denial. This notification must be made at least 14 days prior to the scheduled meeting. Abutters to be contacted include all private owners directly abutting or across the road or street from the subdivision, all property owners whose land is crossed as a result of an easement granting access to this lot, and all owners of any private road accessing the property.
- 3.5 Within 30 days of receipt of a Subdivision Plan application form and fee, 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. If the application is complete, the Planning Board will notify the applicant of the next Planning Board meeting at which the proposed plan will be discussed.
- 3.6 At least one copy of the Subdivision Plan shall be submitted to the Board chairman and shall include:
 - a. An aerial photograph or topographic map of the land, either marked or with an acetate overlay showing the general configuration of the subdivision lots, the number of acres within the proposed subdivision, location of the property lines, wooded and clear land, watercourses, wetland areas, existing buildings, utility poles, location of culverts, soil test sites, and other essential existing physical features. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
 - b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
 - c. A copy of any covenants, deed restrictions, easements, other rights-of-way and encumbrances intended to cover all or part of the lots in the subdivision.
 - d. A soil analysis (perc test) for a subsurface sewage disposal system shall be prepared by a licensed site evaluator and the location of test sites marked on the plan. The location of suitable sites must follow standard building permit requirements for location of septic sites in relation to neighboring lots and water wells.
 - e. If applicable, the location of any open space to be preserved for public or private use and a proposal for its improvement and management.
- 3.7 The Board may waive any submission requirement that it feels is unnecessary for reaching its findings of fact in approving or disapproving the proposed subdivision in accordance with the provisions of this ordinance and State statute.
- 3.8 The applicant shall notify the Town's road commissioner and fire chief of the proposed subdivision, the number of house lots or dwelling units planned, and request comments upon the adequacy of their department's existing facilities to service the subdivision. Their comments, if any, shall be submitted as part of the Subdivision Plan, and will be considered in regard to minimizing any potentially adverse impact of the subdivision to the town based on the Purposes stated in Article I of this ordinance. The Planning Board reserves the right to directly contact these officials if necessary.
- 3.9 If a public hearing is deemed necessary by the Board, the hearing will be scheduled at least 30 days before a final determination on the Subdivision Application. The Board shall have notice of the date, time and place of the hearing given to the applicant and published at least 2 times in a newspaper of general circulation, with the first notice published at least 7 days before the hearing. An additional fee shall be charged to the applicant to cover the costs of advertising.

3.10 The Board shall within 30 days after a public hearing, if held, or within 60 days of a complete Subdivision Plan application, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, make findings of fact on the application, and approve, approve with conditions, or deny the Subdivision Plan. If the Board finds that any of the standards of the statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure that all of the standards will be met by the subdivision.

3.11 It is expected that the subdivider will use professional services as required for development of the subdivision to meet these and all state standards for subdivision and land use development (e.g. wetland buffers, septic design, etc.)

3.12 If the plan is approved, the subdivision remains in effect indefinitely, regardless of a change in ownership, subject to the following conditions:

- a. If there is a zoning change and lots remain to be sold, the remaining lots may adhere to the originally approved zoning standards for up to 5 years from the zoning change.
- b. Lots within the subdivision that are unsold 5 years after a zoning change must adhere to the most recent zoning standards.

Article IV ENFORCEMENT

4.1 Development of a subdivision without Board approval shall be a violation of law. Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each conveyance, offering or agreement. The Town of Freedom 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.

4.2 No lots may be sold until all conditions referenced in the approved subdivision plan are met.

Article V GENERAL STANDARDS

5.1 Lots shall conform to the requirements in Freedom Building Ordinance, other related town ordinances and all existing state regulations. In a subdivision, dwellings may be clustered in a residential development up to a density not to exceed the average minimum lot size in the land use district in which it is located. Such clustering is encouraged in order to reduce the number of driveways into a subdivision and to maintain rural character. The subdivision cannot result on the creation of any landlocked lots without deeded access.

5.2 Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus soil from roads, parking areas, and building excavations.

5.3 Sufficient vegetation shall be left intact to prevent soil erosion, however, normal thinning, landscaping, and cutting trees to provide access to direct sunlight is permitted. Forestry activities or extensive cutting or clearing shall follow state guidelines. An existing buffer of trees is to be maintained for a depth of at least 50 feet alongside state and town road frontage. The intention is to preserve existing character of wooded roads in the town.

5.4 The subdivision shall be designed so as to minimize access points to any public road, utilizing side roads and combining driveways where reasonable. Clustering home sites along a shared driveway is encouraged.

5.5 Subdivision roads shall conform to the provisions of minimum state road standards and be sufficient for town emergency vehicles for fire, etc. Also, the Board may require that the developer, a Homeowners' Association, or other responsible party with the ability to collect revenue from lot owners be made legally responsible for the maintenance of the road as a condition of subdivision approval. This may occur when a subdivision is on a road that is not maintained by the town.

5.6 The subdivision will provide for adequate off-road parking for anticipated residents, customers, guests and deliveries. Parking areas shall not be permitted within the buffer area described in 5.8 below.

5.7 For all subdivisions, a buffer strip of at least 50 feet shall be maintained along the exterior property boundaries. No structures, roads or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the development. Within the first 25 feet of the buffer strip, as measured from the exterior boundary of the development, existing visual screening shall be maintained. Screening may consist of natural or landscaped vegetation.

Article VI WAIVERS

Where the Board makes written findings of fact that there are special circumstances involving a proposed subdivision or a portion thereof, it may waive certain requirements or standards to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of this ordinance.

Article VII SEVERABILITY

If any portion of this ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Article VIII APPEALS

All decisions of the Planning Board, pursuant to this ordinance, may be appealed within 30 days to the Board of Appeals in accordance with the Board of Appeals Ordinance for the Town of Freedom. This Board shall have the authority to grant a variance from the terms of this ordinance, where necessary, to avoid undue hardship, provided there is no substantial departure from the intent of this ordinance and remains consistent with other applicable laws.

Article IX AMENDMENTS

At any time this ordinance is amended, the Town Clerk, upon advice from the Planning Board, is authorized to insert and/or delete amended language, insert and/or delete clearly inconsistent references caused by such amendments, renumber sections of the amended ordinance in a logical and appropriate fashion, and correct typographical errors, provided such changes do not result in any substantive alteration in the meaning of the ordinance.