

Blue Hill Subdivision Ordinance

Originally Adopted and Effective:

October 30th, 1992

Amended and Reinstated Effective:

April 10th, 2023

Attest True Copy:



Town Clerk

4/13/23
Date

**BLUE HILL
SUBDIVISION ORDINANCE**

I. PURPOSE

The purpose of this Ordinance (which shall be known as the “Blue Hill Subdivision Ordinance” or, herein, as the “Ordinance”) is to assure the safety, health, and welfare of the people of the Town of Blue Hill, to protect the environment, and to promote the development of an economically sound and stable community. In reviewing subdivision applications, the Planning Board, or the Select Board in the absence of a planning board, shall consider the requirements of this Ordinance before granting approval, approval with conditions, or denial, and shall make findings of fact that the provisions of this Ordinance have been met and that proposed subdivisions meet the guidelines of Maine subdivision law, Title 30-A M.R.S. §§ 4401-4407, and as it may later be amended.

II. AUTHORITY; DEFINITIONS

A. Authority

This Ordinance is adopted pursuant to Municipal Home Rule Powers granted in the Maine Constitution; Title 30-A M.R.S. §3001-3006; and Title 30-A M.R.S. § 4403(2).

B. Definitions

The terms in this Ordinance shall be as defined in Title 30-A M.R.S. § 4401, and as it may later be amended.

C. Effective Date

The effective date of this Ordinance or any amendments hereto is the date of its adoption at a Town Meeting.

III. APPLICABILITY

This Ordinance applies to all land use activities defined as a “Subdivision” in Title 30-A M.R.S. § 4401, and as it may be later amended.

IV. FORM OF APPLICATION

Application for subdivision approval shall be made in a form approved and promulgated by the Planning Board.

V. ADMINISTRATIVE REVIEW PROCEDURES

Administration of this Ordinance shall be as provided in Title 30-A M.R.S. §4403, as it may later be amended.

A. Preliminary application

1. An applicant shall submit ten (10) copies of the application and preliminary plan to the Code Enforcement Officer (CEO) who shall forward these materials to the Planning Board. When an application is received, the CEO shall give a dated receipt to the applicant. The applicant shall provide a list of the names and addresses of all current abutting land owners of the proposed project with the application. In the event the property on which the project is located contains frontage on a road, abutting land owners shall include those on the opposite side of said road. The applicant shall be responsible for sending a notice (provided by the Town) of the proposed project and application via certified mail, return receipt requested, to all abutting land owners and shall provide the CEO with copies of the completed return receipts and an affidavit stating the terms of this condition have been met.
2. The applicant shall also notify the Code Enforcement Officer, the clerk and reviewing authorities of other municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The applicant shall supply written proof that the reviewing authorities of any abutting municipalities received notice of the proposed project.
3. The preliminary plan shall be drawn in the appropriate scale on sheets not larger than 24" x 36" each and shall show the location of all existing structures, wells, subsurface sewer systems, utilities, streams, water bodies, and roads located on the applicant's property. There shall be included a location map, to a scale of not less than 1" to 400', showing the relationship of the proposed project to all land within 3,000 feet of any property line.
4. All preliminary plans shall clearly be marked "PRELIMINARY" in the top right-hand corner. The preliminary plan and accompanying information sheets shall show the following, except for those items that the Planning Board deems not appropriate and agrees to waive:
 - a. Proposed subdivision name.
 - b. Lot numbers and land boundaries.
 - c. Date, magnetic north point, and a scale appropriate to the following table:

ACRES	SCALE
1-10	1" = 10' to 1" = 50'
1-50	1" = 50' to 1" = 100'
50 & up	1" = 100' to 1" = 200'

- d. Proposed lot lines with approximate dimensions and locations of existing and/or proposed buildings, subsurface sewerage disposal systems, utilities, streets, and wells on applicant's property.
- e. Location of all parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or site elements to be preserved.
- f. Location and size of wetlands, watercourses, and other essential existing physical features located on applicant's property.
- g. Contour lines at intervals of not more than 5 feet.
- h. Typical cross-sections of proposed grading for roadways, sidewalks, and storm drainage facilities (attach to preliminary application).
- i. A soil erosion and sedimentation control plan (attach to preliminary application).
- j. Evidence of soil suitability for subsurface wastewater disposal prepared by a Maine licensed site evaluator in full compliance with the requirements of the State of Maine Subsurface State Wastewater Disposal Rules, plus the applicable Soil Conservation Service medium-intensity soil survey.

The area on each lot found to be suitable for subsurface wastewater disposal shall be accurately plotted on the subdivision plan.

In no instance shall a disposal area in developments to which this Ordinance applies be permitted on a lot which requires a new system variance from the Subsurface Wastewater Disposal Rules if any part of such lot is located in a shoreland-zoned area or in the watershed of the Blue Hill Water District.

- k. Evidence that all criteria of other Town of Blue Hill land use ordinances can be met and that all of the review criteria in this Ordinance will be satisfied.
- l. Subdivisions in which more than a daily average of 2,700 gallons of wastewater of any type may be generated when the site is not served by public sewer, shall submit a high-intensity soil survey prepared by a certified soil scientist and a hydrogeologic assessment prepared by a certified geologist with demonstrated groundwater hydrology impact assessment experience and training, and when any one or more of the following conditions are met:

- 1) Any part of the subdivision is located over or within 300 feet of a sand and gravel aquifer, as shown on a map entitled "Hydrogeological Data for Significant Sand and Gravel Aquifers," prepared by the Maine Geological Survey, 1985.
 - 2) The subdivision contains any lot less than 100,000 square feet in total area.
 - 3) The subdivision has an average density of less than 100,000 square feet per dwelling unit.
 - 4) In a cluster development of 10 or more units, the density of which is less than 1 ½ acres per dwelling unit attached or detached.
 - 5) Any part of the subdivision is located in a shoreland zoned area.
 - 6) Any part of the subdivision is located in the watershed of the Blue Hill Water District.
- m. A traffic impact analysis which demonstrates that the street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision has adequate traffic-carrying capacity or can be suitably improved to accommodate the amount and types of traffic generated by the proposed use.
- n. Subdivisions which may extract more than 2,700 gallons of groundwater or spring water per day shall submit a groundwater extraction impact assessment.
5. Within forty (40) days after receiving an application, the CEO shall notify the applicant in writing either that the Planning Board found the application is complete or, if the application is incomplete, list the specific additional material needed to complete the application.
 6. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

B. Preliminary review

1. Within forty (40) days of determining that the preliminary plan and application for subdivision approval are complete, the Planning Board shall hold a public hearing. The CEO shall give notice via certified mail to the applicant and abutting lot owners immediately upon setting the date for the hearing, and shall cause a notice to be published twice in a newspaper of

general circulation in the Town of Blue Hill, the first publication to be at least ten (10) days prior to the hearing.

2. The Planning Board shall, within forty (40) days of the public hearing, and in any event no more than eighty (80) days from the date of determining that the preliminary application is complete, or within such other time as may be mutually agreed upon by the applicant and the Planning Board, issue an order denying or granting approval of the subdivision plan. The Board may grant approval upon such terms or conditions as it may deem advisable to satisfy the criteria and standards of the land use ordinances of the Town of Blue Hill.
3. Unless a specific extension of time is granted by the Planning Board, the approval of any Preliminary Plan shall expire one year from the date of approval.

C. Final application

1. The Final Plat shall be submitted within one year after the date of approval of the preliminary plan. It shall be submitted with the original transparency suitable for permanent recording in the Hancock County Registry of Deeds. The Final Plat and three copies shall be submitted to the CEO who shall provide the information to the Planning Board.
2. The Final Plat shall show the following, except for those items that the Planning Board deems not appropriate and agrees to waive:
 - a. All the information required for the Preliminary Plan and amendments thereto.
 - b. Title and location of subdivision or plan; name, registration number, and seal of the registered land surveyor who prepared the Final Plat; and date.
 - c. Names and lines of all existing and proposed streets; lengths of all straight lines; the angle deflection, radius, length, and central angle of all curves; tangent distances; and bearings.
 - d. Location and description of permanent markers.
 - e. All conditions of approval imposed by the Planning Board.
 - f. Sufficient lines for signatures of the Blue Hill Planning Board members and a line for date of approval.

D. Final review

1. If the Planning Board determines that another public hearing is appropriate, the procedures for a public hearing on a Final Plat shall be the same as those

for a preliminary plan (see Section V(B)(1) above). In all instances, the burden of proof shall be upon the applicant. In issuing its decision, the Planning Board shall make findings of fact as required by Title 30-A M.R.S. § 407 and as it may later be amended.

2. The Planning Board may require a performance guarantee to secure completion of all public improvements required by the Planning Board and written evidence that the municipal officers are satisfied with the legal sufficiency of any documents.
3. The approval of a Final Plat shall be attested on the original transparency and three (3) copies by the signatures of a legal majority of the Planning Board. One copy shall be filed with the Town assessors and one copy shall be filed with the CEO. The transparency and third copy shall be given to the applicant. The applicant shall record the transparency with the Hancock County Registry of Deeds within sixty (60) days of its signature by the Planning Board.

VI. REVIEW CRITERIA

The review criteria in this Ordinance shall be as provided in Title 30-A M.R.S. § 4404. The Planning Board shall, before granting approval of any subdivision, consider all of the review criteria described in that statute and must determine that all such criteria have been met.

VII. APPLICATION FEES

A. Preliminary Plan Fees

Fees and penalties associated with applications for permits under this Ordinance shall be as indicated on the Town fee schedule, as determined by the Select Board, in effect at the time the application is deemed complete by the Planning Board.

B. Final Plan Fees

All applications for Final Plan approval shall be accompanied by an application fee as indicated on the Town fee schedule, as determined by the Select Board, in effect at the time the application is deemed complete by the Planning Board.

C. Planning Board Review Escrow Account

In addition to the above application fees, there shall be an escrow-account payment made at the time of application in an amount indicated on the Town fee schedule, as determined by the Select Board, in effect at the time the application is filed. The escrow-account fee shall be payable by separate check to the Town of Blue Hill, Maine, and need not be deposited into a separate account. The escrow-account fee or portions thereof shall be used by the Town, at the request of the Planning Board, to make payments for the reasonable costs incurred by the Planning Board that relate directly to the Planning Board's review of the related subdivision application. Such costs may

include, but need not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees. All such fees must relate to the review of the application pursuant to the review criteria of the State of Maine and the Town of Blue Hill, and in addition may be used for conducting public hearings related to the Planning Board's review of the application.

Upon final approval or denial of the subdivision application, the CEO shall provide the applicant with a final accounting of this account and shall refund to the applicant all of the unexpended portion, if any, of the escrow-account fee after payment of all costs related to the Planning Board's review of the application. Escrow-account fees shall not be used by the Planning Board for any enforcement purposes, nor shall the applicant be liable for costs incurred by the Planning Board which exceed the amount deposited to the escrow account, except by mutual agreement.

VIII. ENFORCEMENT

A. Prohibited Activities

No person may sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the Planning Board and subsequently recorded in the Hancock County Registry of Deeds.

B. Permanent Marker Required

No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes, but is not limited to, a granite monument, a concrete monument, an iron pin, or a drill hole in ledge.

C. Utility Installation

No public utility, water district, sanitary district or any utility company of any kind may install services to any lot of dwelling unit in a subdivision unless written authorization attesting to the validity and currency of all permits required under this Ordinance has been issued by the Planning Board. Following installation of service, the company or district shall forward the written authorization to the CEO, indicating that installation has been completed.

D. Violations, Enforcement

The Code Enforcement Officer, upon finding that any provision of this Ordinance, or any condition of a permit issued under this Ordinance, has been violated, is authorized to issue notices of violation, orders to correct, and schedules to correct; to enter into administrative decrees and agreements; and, with the approval of the Select Board, to institute legal proceedings on behalf of the Town of Blue Hill to enjoin violations of this Ordinance and to recover civil penalties and costs.

E. Civil Penalties

A person who violates the provisions of this Ordinance or the condition(s) of a permit issued hereunder, shall be guilty of a civil violation and on conviction shall be assessed a civil penalty not less than \$100.00 nor more than \$2,500.00. Each day the violation continues shall constitute a separate violation. All civil penalties shall be paid to the Town of Blue Hill. Violators shall also be liable for court costs and reasonable attorney fees incurred by the Town in connection with the violation.

IX. REVISIONS TO EXISTING PLAT OR PLAN

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall comply with Title 30-A M.R.S. § 4407 as amended. In reviewing such an application, the Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the Review Criteria of this Ordinance.

X. VALIDITY AND SEPARABILITY; CONFLICT WITH OTHER ORDINANCES

A. Validity and Separability

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

B. Conflict with Other Ordinances

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirement shall apply.

XI. APPEALS

An appeal from a decision of the Planning Board may be taken to Superior Court within 30 days pursuant to Rule 80B, Maine Rules of Civil Procedure.