

Department of Agriculture, Conservation and Forestry

MAINE LAND USE PLANNING COMMISSION

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Rules Relating to Large Lot Land Divisions

Chapter 16 of the Commission's Rules

Effective Date: September 22, 1990

Amended Effective: November 1, 2021

16.01 LEGAL AUTHORITY

This rule is authorized and adopted under 12 M.R.S. §685-A.

16.02 PREAMBLE

This rule was adopted to provide appropriate transitional standards for a limited number of subdivisions that were affected by the elimination of exemptions for certain large lot divisions from the Commission’s regulatory standards and procedures.

Public Law 1989, Chapter 584 amended the definition of subdivision in the Land Use Regulation law. As a result of this amendment to the law, some lot divisions which had been exempt under the previous definition became legally recognized as subdivisions, subject to regulatory review by the Commission. Chapter 16 was established to provide a streamlined review process for subdivisions that were in various stages of planning and implementation when Chapter 584 was enacted.

This rule originally established a two-year time frame, expiring July 1, 1992, for submission of applications for review under its provisions. This deadline was subsequently extended to July 1, 1993 by Private and Special Law 1991, chapter 92. During the time period established for review of applications under this rule, seven large-lot subdivisions comprising approximately 500 lots were approved under Chapter 16.

Since the deadline for consideration under Chapter 16 has expired, the rule’s function is now limited to maintaining the standards that were applied to subdivisions reviewed under the rule.

16.03 (RESERVED)

16.04 APPLICABILITY

This rule applies only to parcels of real estate where all of the following conditions have been met:

- A. On or before July 12, 1989:
- (1) A division of land was platted and recorded as permitted by the law in effect prior to the enactment of Public Law 1989, chapter 584*;
 - (2) The plat of such land division was properly filed with the Registry and with the State Tax Assessor, or if the land is located in a plantation, with the tax assessor of the plantation;
 - (3) As platted and filed in the Registry, the division is comprised of lots where each lot to be sold or developed occupies at least 40 but not more than 100 acres;
 - (4) As platted and filed in the Registry, the division does not contain any spaghetti lots as that term is defined by 12 M.R.S. § 682(13); and
 - (5) The person creating the division undertook one or more of the following pre-development or development activities:
 - (a) Caused to be performed and recorded by a Maine registered land surveyor a valid and reasonably accurate land survey of each lot within the division;
 - (b) Sought and obtained a road construction permit from the Commission for construction of a road to serve the subdivision. Filing of a notification with the Commission for construction of a land management road is not sufficient to meet this condition;
 - (c) Sold or placed under contract for sale three or more lots within the division as that division is platted and filed in the Registry;
 - (d) Caused to be performed and recorded a medium intensity soils survey of the parcel or a soils suitability test for eighty percent or more of the lots in the division by either a licensed Site Evaluator or a Maine registered soil scientist; or
 - (e) Established a lot owners association for the maintenance of roads within the division, including the adoption of association bylaws; and
- B. Either the parcel from which the division was made contains no shoreland area as that term is defined by 38 M.R.S. §435, or the division was platted and filed in the Registry and with the State Tax Assessor on or before April 19, 1988; and
- C. The person creating the subdivision files a complete application for a permit under this rule prior to July 1, 1992.

* The law in effect prior to enactment of Public Law 1989, chapter 584 is set forth at Public Law 1987, Chapter 810.

16.05 SUBDIVISIONS NOT MEETING APPLICABILITY REQUIREMENTS OR NOT MEETING GENERAL STANDARDS

- A. Subdivision activities (including without limitation sales or conveyances of lots within a previously platted and recorded division, and which occur for the first time after the effective date of Public Law 1989, chapter 584) that do not meet the applicability requirements set forth in Section 16.04 of this rule require Commission subdivision approval and appropriate zoning pursuant to 12 M.R.S. § 685-B and Chapter 10.
- B. This rule must not be construed to prohibit or govern the sale or other conveyance or the development of a lot that does not meet the requirements of this rule where subdivision approval by the Commission has otherwise been obtained under 12 M.R.S. § 685-B and Chapter 10 of the Commission's Standards.
- C. The sale or lease of lots containing 40 or more acres for which a plan of those lots was filed with the Registry and the State Tax Assessor, or if the land is located in a plantation, with the tax assessor of the plantation, on or before April 19, 1988 and for which subdivision approval was not required under law in effect on April 19, 1988 does not require subdivision approval by the Commission. See Public Law 1987, chapter 864, section 11.

16.06 GENERAL STANDARDS FOR ISSUANCE OF PERMIT BY RULE FOR SUBDIVISIONS ELIGIBLE UNDER SECTION 16.04

- A. A permit by rule may be granted only for a subdivision, including qualifying lots therein, as configured on the plat filed in the registry of deeds on or before July 12, 1989 showing that division.
- B. Permanent access to each lot of a subdivision must be secured by a perpetual easement on a privately owned road to a public road or by direct access to a public road. Each lot must have at least 200 feet of frontage along the traveled portion of an access road, provided, however, that this minimum frontage requirement does not apply to lots located on a cul-de-sac or at the terminus of a road. If not shown on the plat, such road must be identified on a separate road plan filed in the registry of deeds.
- C. Roads within the subdivision must have a travel surface of at least 15 feet.
- D. Dwelling units and accessory structures occupying more than 250 square feet and placed upon any lot within a subdivision that is sold after July 1, 1990 must be located no closer than 70 feet from the travel surface of any road except that detached garages may be no closer than 40 feet.
- E. Provision for the maintenance of roads within the subdivision must be made through the creation and operation of a lot owners association or other equivalent binding arrangement.

- F. Each lot must have sufficient soils for installation of a sewage disposal system in compliance with the requirements of the Maine State Plumbing Code.
- G. No lot within a subdivision that is sold after July 1, 1990 may be further divided such that the area of any lot is less than 40 acres, except that a transfer of an interest in land to an abutting owner of land is permitted.
- H. Except as otherwise provided in this rule, development or construction on any lot and construction of roads within a subdivision must comply with the requirements of Chapter 10, Sections 10.25 and 10.27 as well as all other applicable regulatory requirements.
- I. Except as otherwise provided in this rule, uses of lots within a subdivision are permitted to the extent and in the manner allowed within subdistrict(s) within which they are located.
- J. Notwithstanding Sections 10.06(G), 10.21(A)(3)(C) and 10.23(L) of Chapter 10, only for the purposes of subdivisions qualifying under this rule a residential subdivision is a permitted use within (M-GN) General Management Subdistricts and (P-SL) Shoreland Protection Subdistricts.
- K. Within a subdivision lot that is sold after July 1, 1990, no more than one residential dwelling unit, with the dwelling unit occupying not more than 4,000 square feet of gross floor area and accessory structures and buildings may be placed on each lot.
- L. For every 500 acres of land in a subdivision, at least 40 acres must remain permanently undeveloped by imposition of appropriate restrictions, pursuant to a conservation easement or conveyance to a lot owners association, for use as open space or wildlife habitat. However, if the area of all lots to be sold or developed after July 1, 1990, in any subdivision, or contiguous subdivisions owned or controlled by the same entity, comprises more than 3,000 acres, regardless of how platted, at least 80 acres must remain undeveloped in the above described fashion for every 500 acres of land in the subdivision or subdivisions.
- M. The Standards set forth in Sections 16.06(D), (E), (G), (I), (K) and (L) of this rule must be stated as deed covenants on sales or conveyances of lots sold after July 1, 1990.

STATUTORY AUTHORITY:

12 M.R.S. §§ 682, 683-A(3), 685-B(6-A), 685-C(5)

EFFECTIVE DATE:

September 22, 1990 – filing 90-405

EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 4, 1996 – filing 96-165

NON-SUBSTANTIVE CORRECTIONS:

April 18, 1997 – filing 97-071

AMENDED:

October 17, 2000 – filing 2000-446

November 1, 2021 – filing 2021-

(APA Office Note dated November 6, 2013: due to a legislatively-mandated reorganization, the Land Use Regulation Commission was renamed as Land Use Planning Commission, with its umbrella-unit number changed from 04-061 to 01-672.)