

RULES AND REGULATIONS GOVERNING
THE SUBDIVISION OF LAND

CHARLEMONT PLANNING BOARD
CHARLEMONT, MASS.

These Rules and Regulations were established by the Charlemont Planning Board and shall be effective on and after March 15, 1979, and shall remain in effect until modified or amended by the Planning Board.

I. Authority

The Charlemont Planning Board enacted these Rules and Regulations under the authority granted by Section 81-Q of Chapter 41 of the General Laws. For matters not specifically covered by these Rules and Regulations, reference is made to the Subdivision Control Laws, Sections 81-K through 81-GG of Chapter 41 of the General Laws as most recently amended.

ATTEST:

Douglas R. White
Walter E. Clark
Howard S. B. Perkins
Lucille E. Cunniff

Charlemont Planning Board

Roberta J. Gindres
Town Clerk

II. PURPOSE

The purpose of these Rules and Regulations is as set forth in Section 81-M of said Chapter 41. The purpose shall be to protect the safety, convenience and welfare of the inhabitants of the Town of Charlemont in the laying out and construction of ways and subdivisions, to provide adequate access to all lots, and to assure sound construction of roadways, good drainage and sanitary conditions.

III. APPLICABILITY

- A. General. Within the Town of Charlemont, no person shall subdivide land (within the meaning of the Subdivision Control Law) or proceed with the improvement or sale of lots in a subdivision, or the construction of ways or the installation of utility services thereon, unless and until a Definitive Plan of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.

B. Definition

1. General

The term subdivision is defined in detail in Section 81-L of Chapter 41 and only this definition has legal status. However, within the limits of this definition, the Planning Board is likely to determine that any division of land is a subdivision if it creates one or more new lots which do not have frontage on an existing street: either a public way; a duly approved subdivision street; or a private way; adequate in the opinion of the Planning Board.

2. Ways in Existence

In determining whether an existing way provides adequate access to qualify a plan as not constituting a subdivision, the Board shall consider the following:

- a. Is the right-of-way at least thirty (30) feet wide and of reasonable horizontal alignment?
- b. Does the existing horizontal and vertical, alignment of the roadway provide safe visibility?
- c. Will the way provide safe, year-round access?
- d. Is the roadway constructed at least eighteen (18) feet wide, with at least twelve (12) inches of gravel surface, and with adequate drainage?
- e. Have provisions been made for public utilities at no cost to the Town?

The Board will not likely find an existing way to be adequate unless it meets the above standards.

C. Recording of a Plan Believed Not to be a Subdivision. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land, and who believes that his plan does not require approval under the Subdivision Control Law, may submit his plan and Application Form A to the Planning Board, accompanied by evidence necessary to show that his plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall give a written receipt therefore, if requested. If the Planning Board determines that the plan does not require approval, it may, through its Chairman or other authorized representative, without a public hearing and without unnecessary delay, endorse on the plan the words "Approval Under the Subdivision Control Law Not Required". The Board may add to the endorsement a statement of the reason approval is not required. The plan will be returned to the applicant and the Planning Board shall notify the Town Clerk of its action.

If the Planning Board determines that the plan does require approval of the Subdivision Control Laws, it will so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its action.

If the Planning Board fails to act upon a plan submitted under this section within fourteen (14) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

- D. Recording of a Plan Requiring Approval. If the Planning Board determines that a plan does require approval, said plan may not be recorded until such approval is obtained in accordance with the provisions outlined below. After such plan, or modification thereof, is approved by the Planning Board, it shall be recorded in the Registry of Deeds within six months, or said approval will be no longer valid.

IV. PROCEDURE FOR SUBMISSION AND APPROVAL OF PLANS

A. Preliminary Plan

A preliminary plan of a subdivision may be submitted to the Planning Board and the Board of Health for discussion and approval, modification or disapproval by each Board. The submission of such plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies and owners of abutting property to discuss and clarify the problems of the proposed subdivision before a Definitive Plan is prepared. Therefore, it is recommended that a Preliminary Plan be filed in each case. A properly executed Form B shall be filed with the Preliminary Plan submitted to the Planning Board.

The applicant shall also file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application Form B.

2. Contents

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and two prints shall be filed with the Planning Board and one print with the Board of Health. Said plan shall be identified as a Preliminary Plan and show all information described under the definition of the Preliminary Plan so as to form a clear basis for discussion of its problems and merits and for the preparation of a Definitive Plan. During review and discussion of the Preliminary Plan, the complete information required by the Definitive Plan will be developed.

3. Approval

The Planning Board may give such Preliminary Plan its approval with or without modification. Such approval of a Preliminary Plan does not constitute approval of a subdivision. Notice of its action must be given by the Planning Board to the applicant and Town Clerk within 60 days of the date of submission.

B Definitive Plan

1. General

Any person who submits a Definitive Plan of a subdivision to the planning Board for approval shall file with the Board the following:

- a. Three contact prints made from the original drawing of the definitive Plan, dark line on white background. The original drawing will be submitted for signatures at a later date if approval is granted.
 - b. A properly executed application Form C.
 - c. A fee to cover the necessary legal notices.
- The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application Form C.

2. Contents

The Definitive Plan shall be prepared by an engineer or surveyor and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one inch equals forty feet or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall preferably not exceed 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. One Definitive Plan shall contain the following information:

- a. subdivision name, boundaries, north point, date and scale.
- b. Name and address of record owner, subdivider and engineer or surveyor.
- c. Name of all abutters as they appear in the most recent tax list.
- d. Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.)
- e. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
- f. Location of all permanent monuments properly identified as to whether existing or proposed.
- g. Location, names, and present widths of streets bounding, approaching, or within reasonable proximity of the subdivision.
- h. Indication of purpose of easements.

- i. Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person).
- j. Street frontage, land area, and identification number for each proposed lot.

Items a. through j. shall be submitted on the same sheet as the Definitive Plan.

Items k. through o. may be submitted on separate sheets.

- k. Existing and proposed topography at a suitable contour interval.
- l. The location of natural objects and surfaces such as waterways, natural drainage courses, ledge outcroppings, stone walls, etc.
- m. Proposed construction plan of roadways, sidewalks, planting strips, and curbs; including a typical cross-section plan.
- n. Proposed layout of storm drainage, water supply and sewage disposal systems, including profiles, and layout of all underground utilities including all appurtenances.
- o. Existing profiles and proposed profiles on the center line of proposed streets at a horizontal scale with that of the plan and with an appropriate vertical scale.

3. Review by Board of Health, as to Suitability of the Land.

At the time of filing of the Definitive Plan, the subdivider shall also file with the Town Clerk for submission to the Board of Health two (2) contact prints of the Definitive Plan, dark line on white background. The Board of Health shall, within forty-five days after filing of the plan, report to the Planning Board in writing, approval or disapproval of said plan.

Every lot so located that it cannot be served by a connection to an approved sewer system shall be provided with a septic tank and leach field satisfactory to the Board of Health. The subdivider shall demonstrate to the Board of Health (by percolation test and pit test in accordance with the State Sanitary Code and at the expense of the subdivider) that each lot shown on the plan can be used for building without injury to health. The Board of Health shall withhold approval of any plan until such tests have been made and shall include in its report to the Planning Board which, if any, of the lots have been found unsuitable for building sites.

4. Review by Other Town Officials.

The Planning Board shall within ten days after submission of a Definitive Plan transmit two contact prints to the Board of Selectmen for review of the layout of the proposed improvements shown on the plans. The Board of Selectmen shall, within 45 days after filing of the plan, report in what respects, if any, the proposed streets and improvements would fail to comply with the standards

for design, construction and acceptance by the Town, and may also make recommendations and suggestions to the Planning Board which in their opinion would improve the subdivision and its future development as an integral part of the entire Town.

5. Public Hearing

Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Planning Board at least fourteen days prior thereto by advertising in a newspaper of general circulation in the Town of Charlemont. A copy of said notice shall be mailed to the applicant and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.

6. Performance Guarantee

Before approval of a Definitive Plan is given, the subdivider shall guarantee completion of the improvements specified by this bylaw, by following the procedure in either a. Performance Bond or b. Covenant, below, at the subdivider's option, or by a combination of the two procedures.

a. Performance Bond

By filing a Performance Bond or depositing money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of the improvements shown on the Plan. Such bond or security shall be approved as to form and manner of executing by the Town Counsel and as to sureties by the Selectmen, and shall be contingent upon the completion of the improvements within two years of the date of the bond.

b. Covenant

By requesting approval of the Definitive Plan subject to a covenant that no lot shall be sold and no building shall be erected thereon until the improvements specified have been constructed and installed so as to serve the lot adequately. Said covenant shall run with the land, and shall be terminated, with respect to any lot, only after the Planning Board is satisfied that the improvements have been completed, and executes and delivers a release to the subdivider.

7. Certificate of Approval

Within 60 days of the receipt of a Definitive Plan, unless an extension of time is agreed upon in writing, the Planning Board will approve, modify and approve, or disapprove said plan, and submit formal certification of its action to the Town Clerk and to the applicant. Provided that approval is voted, and at the end of the 20-day appeal period required by law, a majority of the members of the Planning Board shall endorse the original of the Definitive Plan by signing and returning it to the Applicant for recording.

Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of the streets within a subdivision.

V. DESIGN STANDARDS

A. Classifications

1. Streets in subdivisions shall be classified as major and minor.
 - a. Major Street: a street which is likely to serve ten or more lots or which in the opinion of the Planning Board may carry substantial traffic from future subdivision street development or from traffic from other than just lots on that street.
 - b. Minor Street: a short street which is likely to be used only by vehicles going to and from lots on that street and which serves less than ten lots.

Where lots contain more than one dwelling unit, each dwelling unit shall be considered to be the equivalent of a lot for the purpose of this section.

2. The Planning Board may require higher standards than those set forth herein after for the design and construction of streets within a subdivision, provided that such requirements are necessary and are intended to benefit a substantial area outside the subdivision. In such instances the Town shall, subject to appropriation, reimburse the developer for additional cost imposed on him by such additional requirements, provided such requirements are clearly in excess of those needed to satisfy the subdivision standards.

3. Streets

1. Location

All streets in a subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the developer to the attractiveness of the street layout.

2. Alignment and Design Standards

a. Street jogs with centerline offsets of less than 150 feet shall be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60 degrees.

c. The minimum centerline radii of curved streets shall be:
Major Street - 350 feet
Minor Street - 200 feet

c. Property lines at intersections of major streets shall be rounded or cut back to provide for a curb radii or edge of road radius of no less than 30 feet. A radius of not less than 20 feet is required for minor streets.

d. Width of Right-of-Way The minimum width of street right -of-way shall be 50 feet for major and minor streets

- f. Maximum Grade of Streets -- The maximum grade of streets shall be 7 per cent for major streets and 9 per cent for minor streets. The Planning Board may modify these requirements when, in its opinion, unusual topographic conditions so require, the resulting grades are maintained for only a minimum distance, no hazard or abnormal maintenance problems will result and if the subdivider makes provisions such as paved ditches or other measures to alleviate erosion.
- g. Minimum Grade of Streets -- The centerline grade for any street shall be not less than five-tenths of one percent (0.5%).
- h. Dead-End Streets -- Dead-end streets shall be no longer than one thousand feet unless, in the opinion of the Planning Board, a greater length is warranted by topography or other special conditions.

Whether temporary or permanent, every dead-end street shall be provided at the closed end with a circular turn-around having an outside diameter (street surface) of at least 100 feet and a right-of-way diameter of at least 120 feet.

C. Easements

1. Easements for utilities across lots or centered on rear or side lines shall be provided where necessary and shall be a minimum of 15 feet wide.
2. Where a subdivision is traversed by a water course, drainage way, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width, conforming substantially to the lines of such water course, drainage way, channel or stream, for the purpose of construction of improvements or for future maintenance.

D. Protection of Natural Features

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic spots and, similar community assets which, if preserved, will add to the attractiveness and value of the subdivision and the community

VI REQUIRED IMPROVEMENTS

The improvements required in these Rules and Regulations for the Subdivision of Land must be installed to the satisfaction of the Board of Selectmen. A schedule for the installation of improvements shall be filed with the Board of Selectmen who will provide the developer with a check list of required inspections to be made by the Highway Superintendent or the Board of Selectmen. Failure certification of such improvements and subsequent release of board or covenant.

A. Street and Roadway Construction

1. The entire area within the roadway and slope limits shall be cleared of all stumps, brush, boulders and like material and of all trees not intended for preservation and such material shall

be removed from within the right-of-way and satisfactorily disposed of by the subdivider.

2. Where practical, all loam, topsoil and organic materials shall be removed from within the areas disturbed by construction for reuse on the completed side slopes and ditches.

All soft materials, clay, muck and peat shall be removed to a depth

Which will provide a firm foundation for the full length and width of the roadway embankment or gravel foundation, whichever is greater. No suitable material will be allowed below sub grade or for embankment construction and the sub grade material shall be well compacted and firm before placing the gravel base.

3. Gravel Base -- Twelve inches of well graded and stable gravel base shall be placed and compacted on the finished sub grade. The top four inches of gravel shall be well graded bank run having no stones larger than three inches or shall be screened or crushed gravel.

4. Widths of Surface -- Streets and roads shall be constructed with the following minimum widths of traveled surface:

Major Street -- 24 feet

Minor Street -- 20 feet

5. Surface All Streets shall be surfaced in accordance with the following.

6. The paved surface shall be constructed upon the compacted and graded gravel. The surface shall consist of:

- a. An application of one layer of 1/2-inch washed stone (15 pounds per square yard of surface)
- b. One application of 1/3 gallon of MC-800 asphalt per square yard of surface.
- c. A second layer of 1/2-inch washed stone. (25 pounds per square yard of surface)
- d. A second application of 1/3 gallon per square yard of MC-800.
- e. A final layer of 1/2-inch washed stone. (25 pounds per square yard of surface)

6. Curbing -- Curbing will be required only where the Planning Board determines that special conditions of topography, drainage requirements, steep roadway grade or high traffic density so required. Unless these conditions exist, curbing will not be required, and the adjoining shoulder, grass plot and ditch shall be graded and treated so as to adequately carry the surface water runoff without erosion.

7. Cross-Sectional requirements -- In all cases the design of a subdivision street or road shall be consistent with good design practice and shall provide adequate shoulder width for snow removal, adequate sight distance, suitable roadside ditches and reasonable rates of side slopes. Embankment slopes steeper than 3:1 with a height above existing ground greater than ten feet shall not be permitted without ??????

8. Materials for Construction—Materials and procedures required for the construction of subdivision streets and roads shall be equal to those materials and procedures used by the Town of Charlemont Highway Department. The Town of Charlemont requires that road construction materials and procedures shall conform substantially to the standards of the Massachusetts Department of Public Works Standard Specifications for Highways and Bridges (Current Edition)

B. Utilities

1. Adequate disposal of surface water shall be provided. Roadside ditches shall be drained at intervals of no more than 350 feet by the installation of drop inlets or cross pipes with suitable outlet. All drainage pipes shall have a diameter no less than 12 inches. Where curbing is required or no other suitable method for disposal of surface water runoff from the pavement is provided, catch basins shall be provided at both sides of the roadway at low points, near street intersections and at intervals of no greater than 350 feet along the roadway. The strict enforcement of the drainage requirements may be waived by the Planning Board upon verification by the Town Highway Superintendent that he has viewed the proposed site and the design plans and has determined that the proposed drainage system is adequate.
2. The Plan may be approved by the Planning Board with the provision that no lot shall be built upon without the provision for on-lot water supply specifically approved by the Board of Health.

C. Grass Plots

When required by the Planning Board, all areas disturbed by construction within the right-of-way, exclusive of roadway and tree belt shall consist of grass plot developed on four inches of good quality topsoil or loam rolled and seeded.

D. Monuments

Granite bounds defining the right-of-way shall be installed at all street intersections, at points of change in direction or curvature, and at other points where, in the opinion of the Planning board such permanent monuments are necessary. Permanent monuments shall be installed after construction work has progressed to such a degree that no damage to the monument will result.

E. Inspection Costs

The developer shall be responsible for the cost of all engineering layout, survey, grades and supervision necessary for the construction of the subdivision streets, The Board of Selectmen or the Highway Department shall make regular inspections of the construction as it proceeds in order to verify conformance with the approved subdivision plan. The developer will not be responsible for the cost of these regularly scheduled inspections.

F. Street Acceptance

The acceptance of a plan by the Planning Board does not make any street shown thereon a public way nor does it imply that future acceptance by the Town is likely. Acceptance of any subdivision street may be gained only through compliance with the existing laws of the Commonwealth of Massachusetts and the by-laws and procedures of the Town.

VII. ADMINISTRATION

A. Deviation from these Rules and Regulations

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the opinion of the Planning Board, such action is in the public interest and is not inconsistent with the Subdivision Control Law.

B. Reference

For any matters not specifically covered by these Rules and Regulations, reference is made to the Subdivision Control Law, Section 81-K through 81-GG, inclusive, of Chapter 41 of the General Laws.

C. One Dwelling Per Lot

Not more than one dwelling designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town without the consent of the Planning Board.

D. Building Permit

No building permit shall be issued for a building within a subdivision, and no building shall be erected within a subdivision until the Planning Board has certified that all the provisions of these Rules and Regulations have been complied with.