

2015

# Town of Bowdoin Maine Ordinances

Bowdoin, Me.

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## **The Animal Control Ordinance for the Town of Bowdoin**

### **I. TITLE:**

This ordinance shall be known and cited as the Animal Control Ordinance of the Town of Bowdoin, Maine, and is referred to herein as "this ordinance".

### **II. AUTHORITY:**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the Provisions of Title 30-A, MRSA Section 3001 (Home Rule).

### **III. PURPOSE:**

The purpose of this ordinance is to require that all animals in the Town of Bowdoin be kept under the control of their owners and/or keepers at all times so that they will not injure persons, damage property or create a nuisance.

The provisions which apply to the owners of an animal apply equally to any person having custody or possession of the animal

It is also a goal of this ordinance to prevent the spread of contagious diseases and viruses in relation to domesticated and undomesticated animals.

### **IV. DEFINITIONS:**

1. Owner: Any person owning, keeping, or harboring a dog or other animal.
2. At large: Any animal off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.
3. Dangerous Dog: A dog that bites an individual who is not trespassing on the dog owner's or keeper's premises at the time of the bite or a dog that causes a reasonable and prudent person who is not on the dog owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear bodily harm by attacking or threatening to attack that individual or individual's domestic animal. "Dangerous dog" does not include a dog certified by the State and used for law enforcement use. For purposes of this definition, "dog owner's or keeper's premises" means the residence or residences, including buildings and land and motor vehicles, belonging to the owner or keeper of the dog.
4. Law Enforcement Officer: The following shall have the authority to enforce this ordinance: Law Enforcement Officer/Constable - Any person who, by virtue of his public employment, is vested by law with a duty to maintain public order, enforce any law of this State or Municipality establishing a civil violation, prosecute offenders or make arrest for crimes, whether that duty extends to all crimes or is limited to specific crimes. Animal Control Officer (ACO) - Any person acting in the capacity of Animal Control

Officer as defined by state statute and this ordinance, and who is appointed periodically by the Board of Selectmen pursuant to Title 7, M.R.S.A., Chapter 725.

5. Municipality: A city, town, or plantation.

6. Animal Shelter: A facility specifically constructed for the care and control of animals which is under contract with the Town of Bowdoin to provide basic services and medical attention for animals impounded by the Animal Control Officer or a Law Enforcement Officer/Constable.

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7. Nuisance: The causing of unreasonable noise, litter, or other property damage; the chasing of automobiles, motorcycles, bicycles, or other vehicles; and the entry onto school grounds while school is in session.

8. Leash: A hand held device no longer than six feet in length.

9. Pack: A dog in the company of three or more other dogs.

10. Animal: Includes all domesticated and undomesticated animals.

11. Rabies: A viral disease of the central nervous system (brain and spinal cord) that is almost always fatal.

12. Confirmed Rabid Animal: An animal that has been confirmed by the Health and Testing Laboratory using the direct fluorescent antibody (DFA) test of nervous tissue.

13. Quarantine: Term used to describe the period of time that a domestic animal is to remain separate and apart from other animals and humans after having bitten or otherwise exposed another domestic animal or human to rabies.

14. Currently Vaccinated: Domesticated animals are considered currently vaccinated for rabies if at least thirty days have elapsed since the initial vaccination and duration of vaccination has not exceeded the time period recommendation for that species based upon the type of vaccine used. A Maine "Certificate of Rabies Vaccination" or a form approved by the Commissioner of the Maine Department of Agriculture, Food and Rural Resources is proof of immunization.

15. Suspected Rabid Animal:

- a.) Any mammal, undomesticated or domesticated, showing signs of rabies.
- b.) Any undomesticated mammal which has potentially exposed, through bite or non-bite exposure, a human or domesticated animal to rabies.
- c.) Any domesticated mammal which has bitten a human or domesticated animal.

16. Undomesticated Animal: A mammal considered to be wild by nature by the Maine

Department of Inland Fisheries and Wildlife.

17. Domesticated Animal: A mammal accustomed to home life; tamed for man's use; a typical household pet to include, but not limited to: dogs, cats, ferrets, wildlife hybrids and livestock.

18. Unvaccinated Animal: An animal with no previous rabies vaccination, an animal whose first vaccination was given within the last thirty days, an animal whose last vaccination has expired (per vaccine manufacturer's recommendation), or an animal for which no approved vaccine exists.

19. Wildlife Hybrid: The offspring of a breeding between a domesticated animal and a wild counterpart. This would include but is not limited to: coy dog, wild/domesticated cat hybrid and wolf/dog hybrids. These animals are considered domesticated but have no established quarantine or isolation period for the incubation of the rabies virus.

20. Control: To limit by reasonable means all unnecessary exposure for the suspect rabid animal to humans or to other animals.

21. Neglect: Failure to care for or give proper attention to an animal.

#### **V. ANIMALS CREATING A NUISANCE BY NOISE:**

Anyone owning, possessing or harboring any animal which barks, howls, or makes other sounds common to its species, continuously for twenty minutes or intermittently for one hour or more shall be deemed to have caused a nuisance. Violations shall be addressed, at officer's discretion, as such;

1) Upon 1<sup>st</sup> offense the ACO, or a law enforcement officer shall verbally warn owner of nuisance.

2) Upon 2<sup>nd</sup> offense the ACO, or a law enforcement officer shall provide a written warning informing owner of nuisance.

3) Upon a 3<sup>rd</sup> offense, the ACO, or other law enforcement officer shall issue a citation, and the person owning, possessing, or harboring the animal in question shall be subject to the civil penalty as set forth in Section XVI of this ordinance.

4) For each subsequent violation, the civil penalty called for under Section XVI shall increase in \$30.00 increments.

#### **VI. RUNNING AT LARGE:**

It is unlawful for any animal, licensed or unlicensed, to run at large except when used for hunting. Any stray or abandoned animal roaming at large shall be impounded by the Animal Control Officer (ACO) and taken to a shelter. Any dog leaving the property of its owner or custodian must be on a leash. Any animal in violation may be impounded by the ACO or a law enforcement officer. Any animal so impounded may be destroyed if it

is not claimed within eight days following impoundment. The ACO or other law enforcement officer may take the animal to its owner, if known. However, the offender will be subject to a charge of \$50.00 for services rendered, payable to the Town of Bowdoin.

#### **VII. CONFINEMENT OF CERTAIN DOGS:**

Dogs of fierce, dangerous or vicious propensities or in heat shall be properly confined or tied by the owner or keeper in a reasonable manner to prevent harm to the public. If the owners or keepers of fierce dangerous or vicious dogs or dogs in heat are found in violation of this section, such dogs shall be impounded and not released except on the approval of the ACO or other law enforcement officer and only if all provisions of the Section entitled "Impoundment Fees" have been met.

#### **VIII. ANIMAL CONTROL OFFICER (ACO):**

The Board of Selectmen shall appoint a suitable individual to perform the duties of Animal Control Officer as described by State statute and this ordinance. The Animal Control Officer shall be responsible for the control, regulation and enforcement of all laws related to dogs, cats, domesticated and undomesticated animals in accordance with Title 7, M.R.S.A., Chapter 725.

#### **IX. LICENSE REQUIRED:**

All dogs kept, harbored or maintained by their respective owners in the Town of Bowdoin shall be licensed and tagged in accordance with the appropriate laws of the State of Maine. (Title 7, Section 3921)

#### **X. LICENSING FEES:**

Beginning January 1<sup>st</sup> and no later than April 1<sup>st</sup>, all dogs over the age of six (6) months must be licensed in the Town of Bowdoin by registering the dog(s) at the Town Clerk's Office. Proof of a current rabies vaccination must be shown to obtain a license.

#### **XI. REGISTRY AND NOTIFICATION OF IMPOUNDMENT:**

When impounding an animal the ACO or other law enforcement officer shall at the time of such impoundment, list number and description of violation(s), make a complete registry of the date of impoundment, breed, color, sex and general condition of the animal as can be reasonably ascertained, and if licensed or unlicensed, and the name of the owner or keeper if known, on a registry form. A copy of this form shall be furnished to the Shelter together with written instructions setting forth the conditions under which the animal may be released. When any animal is impounded under the provisions of this article, the person who has control of the Shelter shall, when possible, contact the owner within forty-eight (48) hours and report to the Town Clerk a description of the animal and its place of impoundment. If the owner does not claim said animal, then the Shelter shall dispose of the animal by adoption or otherwise in a



proper and humane manner consistent with the applicable state laws.

## **XII. IMPOUNDMENT FEE:**

All owners may reclaim their animal by first licensing, if applicable, according to this ordinance, and by paying to the Town of Bowdoin an Impoundment Fee of fifty dollars (\$50.00) for each offense. The owner will also be responsible for any additional costs incurred on behalf of the animal at the Animal Shelter prior to reclamation. Fees must be paid at the Town Clerk's Office and a receipt of same presented to the Animal Shelter prior to the release of the animal.

## **XIII. DISPOSITION OF ANIMALS WHICH HAVE BITTEN HUMANS AND/OR HAVE BEEN EXPOSED TO A CONTAGIOUS DISEASE OR VIRAL DISEASE:**

The owner or keeper of an animal which has bitten a human or may have been exposed to a contagious or viral disease shall be served a quarantine notice by the Animal Control Officer or law enforcement officer. The owner or keeper shall confine and control the animal for at least ten (10) days, forty-five (45) days, or six (6) months or as ordered by the Animal Control Officer or law enforcement officer. The owner or keeper must observe and obey all written instructions and procedures included in the quarantine notice. Failure to comply with this section may result in fines or penalties described in the section entitled "Violations". Further, failure to comply with this section may result in a court ordered seizure of the animal to be placed in a state licensed facility that houses such animals. All related expenses shall be paid by the owner or keeper.

## **XIV. ANIMALS CREATING A PUBLIC HEALTH THREAT:**

The municipal Health Officer shall order the suppression and removal of animals and conditions posing a public health threat when there is a reasonable cause to suspect the presence of a communicable disease or viral disease and the owner or keeper has failed to comply with the properly served quarantine notice.

## **XV. VIOLATIONS:**

Any person found in violation of any provision contained in Section V, VI, VII, and/or VIII shall be subject to a civil penalty of not less than fifty dollars (\$50.00) and not more than one hundred dollars (\$100.00) for each offense. All civil penalties shall inure to the benefit of the Town and shall be paid at the Town Clerk's Office. The ACO may cause the initiation of legal proceedings to prosecute any violation of this ordinance.

## **XVI. SEVERABILITY CLAUSE:**

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

*A True Copy*  
*Attested*  
*Jan. 16, 2006*  
*Melanie R. Page*  
*Town Clerk*



## **E-911 ORDINANCE**

### **Section 1. Purpose**

The purpose of this Ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue and emergency medical services personnel in the Town of Bowdoin, Maine.

### **Section 2. Authority**

This Ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

### **Section 3. Administration**

This Ordinance shall be administered by the Board of Selectmen, who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Section 4 and 5. The Board of Selectmen, shall also be responsible for maintaining the following official records of this ordinance.

- A. A Bowdoin map for official use showing road names and numbers.
- B. An alphabetical list of all property owners as identified by current assessment records, by last name, showing the assigned numbers.
- C. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

### **Section 4. Naming System**

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the Town of Bowdoin shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- A. No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).
- B. No two roads shall have similar-sounding names (e.g., Beech Street and Peach Street)
- C.. Each road shall have the same name throughout its entire length.



## Section 5. Numbering System

Numbers shall be assigned every 50 (fifty) feet on both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin.

The following criteria shall govern the numbering system:

A. All number origins shall begin from the southern border of the town and ascend north, from the west border of town and ascend east. For dead end roads, the numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

B. The number assigned to each structure shall be that of the numbered interval fall pins closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closet to the driveway of said structure.

C. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Lewis Hill Rd., apt. 3).

## Section 6. Compliance

All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

A. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.

B. Number at the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall or some structure at the property line next to the walk or driveway to the residence. The assigned number shall be clearly visible in most weather conditions from both approach directions to the residence. (It should show up brightly at night and be higher than the normal snow bank).

C. Size and Color of Number. Numbers shall be displayed in a color and size approved for use by the Board of Selectmen and shall be located to be visible from the road. The recommended size of numbers is 3 to 4 inches, with reflective numbers or background.

D. Any person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

E. Interior location. All residents and other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

## Section 7. New Construction and Subdivisions.

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

A. New Construction. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Board of Selectmen. This shall be done before issuance of the building permit.

B. New Subdivisions. Any prospective subdivide shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Board of Selectmen, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

## Section 8. Effective Date.

This Ordinance shall become effective January 27th, 1997 It shall be the duty of the Selectmen to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before the effective date of its use. It shall be the duty of each property owner to comply with this Ordinance, including the posting of new property numbers, within 30 (thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

## Section 9. Enforcement

It is the duty of the Board of Selectmen of the Town of Bowdoin, to enforce this Ordinance.

Leroy R. Letourneau  
Leroy R. Letourneau

Robie C. Davis  
Robie Davis

Earl Haines  
Earl Haines

Melanie B. Page  
Town Clerk  
A Tru Copy Attested To

Dated: Jan 30, 1997

Selectmen, Town of Bowdoin

B. J. or

# LAND USE PLAN

## BOWDOIN, MAINE



ADOPTED MARCH 10, 1979

AMENDED MARCH 8, 1980

AMENDED MARCH 12, 1983

AMENDED MARCH 11, 1989





## LAND USE PLAN OF THE TOWN OF BOWDOIN

### SECTION 1: TITLE AND LEGAL REFERENCE

This Ordinance shall be known as "Land Use Plan of the Town of Bowdoin: and will be referred to herein as this "Ordinance". This Ordinance is adopted under powers granted the Town by Title 30 M.R.S.A. Sections 1917 and 2151.

### SECTION 2: PURPOSE

The purpose of this Ordinance is to promote the health, safety and general welfare of the residents of the town; to promote safety on the roads and safety from fire and other elements; to provide adequate light and air and prevent crowding of dwelling units; to control traffic congestion; to preserve open space and the visual characteristics of the town; to conserve and protect natural resources such as clean air, water and wildlife; and to further the goals set out in the Comprehensive Plan of the Town of Bowdoin.

### SECTION 3: APPLICATION

This Ordinance shall apply to all dwelling units, including mobile homes and all multiple family dwellings. It shall also apply to dwelling units and multiple family dwellings in subdivisions and to mobile homes in mobile home parks.

### SECTION 4: DEFINITIONS

In this Ordinance the present tense includes the future tense, the singular includes the plural and the plural includes the singular, "shall" is mandatory and "may" is permissive, and the following words shall have the following meanings:

- a. Construct: Includes build, erect, place, move upon, or make other physical improvement operations on a lot. Excavation, fill, drainage and the like shall be included in this definition. Alterations or repairs to existing dwelling units or multiple family dwellings shall not be included unless the alterations or repairs increase the number of dwelling units in the structure.
- b. Dwelling Unit: Any structure, including a mobile home used or designed to house a single family and shall include those structures used permanently or seasonally.
- c. Family: One or more persons occupying a structure and living as a single housekeeping unit.
- d. Lot: All contiguous land in the same ownership on the same side of the road.



- e. Lot Area: The total horizontal area within a lot.
- f. Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map which is either on file with the Sagadahoc County Registry of Deeds or in common use by town officials.
- g. Mobile Home: A dwelling unit built on a chassis and designed to be transportable on its own wheels. A mobile home is designed to maintain part or all of its chassis (not necessarily including its running gear) in order to be structurally sound after installation. Mobile home shall also include a vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational, vacation or other use.
- h. Mobile Home Park: A lot or part thereof used or designed for the accommodation of two or more mobile homes.
- i. Multiple Family Dwelling: Any structure or structures located on a lot, which structures consist of two or more dwelling units and shall include those structures used permanently or seasonally.
- j. Non Conforming Use: A use of a structure or lot which does not conform to the requirements of this Ordinance.
- k. Person: Any individual, firm, partnership, association, organization, trust, company, corporation or other legal entity.
- l. Road: A public or private way that is maintained for ordinary automobile use on a year round basis by the Town of Bowdoin, Sagadahoc County, or the State of Maine; or, a way which is in compliance with the Road Design Standards Ordinance of the Town of Bowdoin.
- m. Road Frontage: The horizontal distance between the intersections of the side lot lines with the front lot line.
- n. Structure: Anything constructed, erected or placed, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.
- o. Subdivision: The division of a tract or parcel of land, within any five year period, into three or more lots all as more particularly defined in Title 30 M.R.S.A. §4956 and any amendments thereto.
- p. Variance: A relaxation of the requirements of this Ordinance.

#### SECTION 5: MINIMUM LOT SIZE

No person shall construct a dwelling unit or a multiple family dwelling on any lot unless the lot area is at least two acres for the dwelling unit or two acres for each dwelling unit in the multiple family dwelling.

#### SECTION 6: MINIMUM ROAD FRONTAGE

No person shall construct a dwelling unit or multiple family dwelling on any lot unless the road frontage is at least 300 continuous feet for the dwelling unit or 300 continuous feet for each dwelling unit in the multiple family dwelling.

#### SECTION 7: GIFTS OF LAND

Notwithstanding Sections 5 and 6 of this Ordinance, any person who either receives an unconditional gift or inheritance from his or her parent, grandparent, greatgrandparent or child of a lot with a minimum lot area of one acre and a minimum road frontage of 150 continuous feet may construct one dwelling unit thereon unless such gift or inheritance was not intended to provide a dwelling unit for such person to live in or was otherwise intended as a means of avoiding the objectives of this Ordinance. No person shall construct more than one dwelling unit in his or her lifetime under the special conditions of this section.

#### SECTION 8: BUILDING PERMIT

No person shall construct a dwelling unit or multiple family dwelling without first obtaining a written building permit from the Building Inspector.

#### SECTION 9: EXEMPTIONS

- a. Notwithstanding the provisions of this Ordinance, a person may construct one dwelling unit on a single lot of record which does not meet the minimum lot area and road frontage requirements of Sections 5 and 6 provided that:
  1. There is no dwelling unit on the lot of record as of the effective date of this Ordinance. For purposes of this exemption all contiguous lots of record in the same ownership on the same side of the road as of the effective date of this Ordinance shall be considered a single lot of record.
- b. This Ordinance shall not apply to any dwelling unit or multiple family dwelling in existence and in place on a lot as of the effective date of this Ordinance; except that no person shall reduce the lot area or road frontage of the lot upon which such dwelling is located to a size or frontage less than that allowed by Sections 5 and 6 of this Ordinance or Section 7 where appropriate. If any such dwelling is either removed or destroyed, one dwelling unit may be constructed on said lot provided the unit is completed within five years of removal or destruction of the original dwelling.
- c. This Ordinance shall not apply to a mobile home which is 1, permitted upon a lot by the person owning said lot, and 2, permitted on said lot for less than 90 days in any twelve month period.

SECTION 9A:      ADDITIONAL PERMITTED USE FOR ROAD FRONTAGE LOTS WITH LARGE ACREAGE

Notwithstanding the provisions of Section 6 one dwelling unit may be constructed providing each of the following requirements are met:

- a. The dwelling unit will be contained on a lot of at least two acres;
- b. The lot will have a deeded right of way for common vehicular traffic of at least fifty feet (50') in width from said lot to a road or the lot includes a fifty foot (50') strip of land suitable for vehicular traffic from the lot to a road;
- c. The lot is created out of a lot of record having at least 300 feet of road frontage and said lot of record is not thereby reduced in area to less than two (2) acres or less than 300 feet of road frontage, and provide further that said reduced lot has no more than one (1) dwelling on it per 300 feet of road frontage;
- d. Only one additional dwelling may be constructed under this Section for all contiguous land in the same ownership on the same side of the road without regard to how many lots of record exist on such contiguous land;
- e. Any such dwelling authorized under this Section must be located at a distance of no less than 300 feet from any point on any road;
- f. The provisions of Section 7 for gifts of land shall not apply in any way to the exception created by this Section.

SECTION 10:    RULE OF PRECEDENCE

Whenever a non-conforming use is superseded by a permitted use of a lot, the lot shall thereafter conform to the provisions of this Ordinance and the non-conforming use may not thereafter be resumed.

SECTION 11:    VARIANCE    *Repealed - See Board of Appeals Section*

The Planning Board may grant a variance where the strict application of this Ordinance, or a provision thereof, would cause undue hardship to the applicant and his property. To constitute "undue hardship" each of the following conditions must be met:

- a. The land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality; and
- d. That the hardship is not the result of action taken by the applicant or a prior owner.

Applicants for a variance must submit a written request to the Planning Board which:

- a. Locates and describes the lot;
- b. States the variance being sought;
- c. Details all reasons for seeking the variance together with any relevant documentation;
- d. Lists by names and addresses all owners of land within 1000 feet of the lot lines; and
- e. Contains such other information as may be required by the Planning Board.

Before deciding on any application for a variance, the Planning Board shall notify the owners of land within 1000 feet of the lot lines and shall give the applicant, abutters and other interested members of the public an opportunity to be heard.

#### SECTION 12: CONFLICT WITH OTHER REQUIREMENTS

With the exception of Section 13 below, this Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

#### SECTION 13: REPEAL OF PRIOR ORDINANCE

The Ordinance requiring a minimum lot area of one acre and minimum road frontage of 150 feet adopted under Article 7 of the Town Warrant at the Special Town Meeting of November 9, 1975, is hereby repealed.

#### SECTION 14: ENFORCEMENT

- a. Nuisance - Any violation of this Ordinance shall be deemed to be a nuisance.
- b. Building Inspector - The Selectmen, after consultation with the Planning Board, shall annually appoint a Building Inspector to enforce the provisions of this Ordinance. The Building Inspector shall issue a written, dated and signed building permit, retaining a copy thereof, to any person filing a written application to construct a dwelling unit or multiple family dwelling; provided, however, that the proposed construction does not violate any of the provisions of this Ordinance. The Building Inspector may make site visits, examine deeds or do such other investigations as the Building Inspector deems necessary to insure compliance before and after issuing a permit. Said permit shall set out the lot area and road frontage for each dwelling unit. If approval by the Planning Board is also required by any Town Ordinance or regulation or state statute before construction, the Building Inspector shall not issue the building permit until he receives written approval by the Planning Board. The Selectmen shall set the fee for such permits.

- c. Notice - If the Building Inspector finds that any provision of the Ordinance is being violated at any time, before or after the issuance of a building permit, the Building Inspector shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of construction, removal of structures which were constructed in violation of this Ordinance, and abatement of any nuisance conditions. A copy of such notice shall be maintained as a permanent record.
- d. Legal Action - When the Building Inspector's notice does not result in prompt action to correct or abate the violation, the Selectmen, on their own or after notice from the Building Inspector, are hereby authorized and directed to institute any and all actions and court proceedings, either legal or equitable, including the seeking of injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- e. Fines and Attorneys' Fees - Any person who fails to take prompt action to correct or abate the violation after receiving written notice of such violations shall be subject to a fine of up to \$50. Each day such violation exists after notice shall constitute a separate offense. If in any action brought in the name of the Town under this Ordinance, the Town prevails against the person violating the Ordinance, then such person shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.

#### SECTION 15: ADOPTION OF AMENDMENTS

An amendment to this Ordinance, if in proper form, may be adopted by:

- a. A majority vote at a regular or special Town meeting if the proposed amendment is recommended by the Planning Board, or
- b. Two-thirds (2/3) majority vote at a regular or special Town meeting if the proposed amendment is not recommended by the Planning Board.

#### SECTION 16: VALIDITY AND SEVERABILITY

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid or invalid as applied, such decision shall not invalidate any other section, clause or provision of this Ordinance.

#### SECTION 17: EFFECTIVE DATE

The effective date of this Ordinance is March 10, 1979.



AMENDMENT TO LAND USE ORDINANCE  
TOWN OF BOWDOIN

ESTABLISHMENT OF A BOARD OF APPEALS

CLAUSE I. REPEAL OF SECTION 11 OF THE LAND USE PLAN

Section 11 of the Land Use Plan of Bowdoin, adopted March 10, 1979, as amended March 8, 1980, and further amended March 12, 1983, is hereby repealed, and the Land Use Plan, as amended, is further amended to include the following sections.

CLAUSE 2. ESTABLISH OF A BOARD OF APPEALS

SECTION II

A. APPOINTMENT OF MEMBERS

There is hereby created a Board of Appeals to assist in the administration of the Land Use Plan. Such Board shall serve as a Board of Appeals pursuant to Title 30 of Maine Revised Statutes, Section 2411, and may perform such other functions as may be delegated to it by other ordinances.

The Board shall consist of five (5) members appointed by the selectmen. The members shall be residents of the Town, and their compensation shall be established from time-to-time by the town meeting. Appointments to the Board shall be for terms of three (3) years. However, initial appointments to the Board shall be as follows: two (2) members shall be appointed for terms of three (3) years each; two (2) members shall be appointed for terms of two (2) years each; and one (1) member shall be appointed for a term of one (1) year. The Board shall elect annually a

chairman and secretary from its membership. Neither a Selectman, a member of the Planning Board, nor the spouse of a Selectman or member of the Planning Board may be a member of the Board.

whenever there occurs a vacancy on the Board other than by the expiration of a term, the Selectmen shall appoint a person to serve for the balance of the unexpired term.

B. VACANCIES

Vacancies may occur by reason of resignation, death, removal from the Town, and when certified to the Selectmen by a majority of the members of the Board, by failure to attend at least two-thirds of the Board meetings, regular or special, during any twelve month period. A member may also be removed for cause, after notice of hearing, by the Selectmen. Vacancies so caused shall be filled as stated above.

C. CONFLICT OF INTEREST

Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by majority vote of the members present, except the member who has been challenged shall not participate in the vote.

D. QUORUM.

Three (3) members of the Board shall constitute a quorum for the Hearing of Appeals. If less than a quorum is present at any meeting, the hearing may be adjourned for a period not exceeding two weeks.

E. POWERS AND DUTIES.

(i) Administrative Appeals.

To hear and decide in any case where there is alleged to be an error in any order, requirement, decision, or determination by the Building Inspector in the enforcement of this Chapter. The action of the Building Inspector may be modified or reversed by the Board of Appeals, by a concurring vote of at least three (3) members of the Board.

(ii) To hear and decide in any case where there is alleged to be an error in any order, requirement, decision or determination by the Planning Board of the Town of Bowdoin in the review of enforcement of this Chapter or any other ordinance, law or code of the Town of Bowdoin. The action of the Planning Board may be modified or reversed by the Board of Appeals by a concurring vote of at least three (3) members of the Board.

(iii) Variance Appeals.

To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Chapter would not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the results of the actions of the applicant, a literal enforcement of this Chapter would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. Crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

The words "undue hardship" as used in this subsection mean:

(1) the land in question cannot yield a reasonable return unless

a variance is granted; (2) the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; (3) the granting of a variance will not alter the essential character of the locality; and (4) the hardship is not the result of action taken by the applicant or a prior owner.

The applicant shall submit specific information to substantiate that the land in question cannot yield a reasonable return.

Except where specifically limited or prohibited, variances may be authorized only for minimum setback; maximum building/lot ratio; onsite parking requirements of up to 25%; minimum frontage; minimum lot size (but in no case shall a lot of less than 40,000 S.F. be permitted); 10% expansion of nonconforming uses and buildings. Only the minimum variance which will alleviate the hardship shall be granted.

F. CONDITIONS ATTACHED TO VARIANCES.

The Board of Appeals may attach such conditions, in addition to those required by other provisions of the Ordinance, as it finds necessary to ensure compliance with all standards in all other applicable requirements of this Ordinance. Violation of any of those conditions shall be a violation of the Ordinance.

G. PROCEDURE.

A person aggrieved by decision of the Building Inspector shall commence his/her appeal in accordance with Maine Revised Statutes. The

appeal shall be filed with the Town Clerk together with a fee in an amount to be determined by the Selectmen, but which shall not be less than \$50.00, on forms to be approved by the Board of Appeals, and the aggrieved person shall specifically set forth on said forms the grounds for said appeal. The forms shall be designed in such a manner that the aggrieved person is made fully aware of all of the information which should be presented to the Board of Appeals in order for it to take action. Such forms shall be designed to provide adequate notice to the Board of the issues presented, and the facts necessary to decide those issues.

Before taking action on any appeal, the Board of Appeals shall hold a public hearing. The Board shall notify by mail the owners of property abutting the property for which an appeal is taken, of the nature of the appeal and of the time and place of the public hearing thereon.

Fees to cover the administrative costs of the appeal shall be set by the Selectmen, and shall be paid prior to any public hearing.

Following the filing of an appeal, the Board shall notify all interested parties, and the appeal shall be heard at the next meeting of the Board of Appeals provided that at least ten (10) days notice is provided to interested parties prior to the public hearing.

At any hearing, a party may appear by attorney or agent. The hearing shall not be continued to any other time except for good cause, or upon vote of the Board.

The Building Inspector shall attend all hearings and shall present to the Board all plans, photographs, or other materials he deems appropriate for an understanding of the appeal.



The appellant shall present his or her case first. This may be followed by comments from persons in favor or the project, then those opposed to the appeal, and then those who wish to comment but who are neither for nor opposed. All questions of the appellant shall be asked through the chair. All persons appearing shall abide by order of the chairman.

In order to grant an appeal, the appellant must secure votes of at least three (3) members of the Board of Appeals.

If the work or change involved in the appeal is not commenced within six (6) months of the date on which the appeal has been granted, and if such work or change has not been substantially completed within one (1) year of the date on which such appeal is granted, the appeal shall be void. The Board may, for good cause shown, extend the time for commencement and/or completion of the work or change.

The Secretary of the Board shall prepare for recording the information and papers necessary to be recorded in the Registry of Deeds relevant to any appeal which has been granted. It shall be the responsibility of the appellant to record the documents, however.

If the Board shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one (1) year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or understanding of facts has been made.

#### CLAUSE 3. AMENDMENT TO SECTION 14

Section 14(b) of the Land Use Plan of Bowdoin, adopted March 10, 1979, as

amended March 8, 1980, and further amended March 12, 1983, is hereby amended to include the words "or Board of Appeals" after the words "Planning Board" in the next to the last sentence of said Section.

*A True Copy Attested:  
Melanie R. Page  
Burdoin Town Clerk  
December 6, 1999*



## RECYCLING ORDINANCE

1. **Title and Purpose:** This ordinance shall be known as the Recycling Ordinance for the Town of Bowdoin. This ordinance has several purposes: to preserve and protect environmental resources, to protect the health, safety and welfare of the public, to enhance the quality and character of life in the Town, and to improve efforts to recover and reuse valuable resources currently being wasted.
2. **Scope:** This ordinance applies to all domestic, commercial and industrial producers of solid waste in the Town of Bowdoin.
3. **Authority:** This ordinance is adopted pursuant to the Home Rule powers granted in the Maine Constitution, 30-A, M.R.S.A. 3001 et seq., and 38 M.R.S.A. 1301 et seq.
4. **Definitions:** The definitions set forth in 38 M.R.S.A. 1303 apply to this ordinance and are incorporated herein. Any word not otherwise defined shall have its ordinary meaning.
5. **Recycling Requirements:** The following commodities ("recyclable materials") should be separated out in a readily-manageable form when delivered to the Town recycling facility:
  1. Newspaper --But not coated or "shiny" inserts;
  2. Steel & Tin Cans, Aluminum Foil, Pie Pans
  3. Clear Glass
  4. Colored Glass
  5. Milk Jugs (NO CAPS)
  6. Clear & Colored Plastics
  7. Cardboard (Corrugated only) & Brown Shopping Bags

### SEE ATTACHED "HELPFUL HINTS" FOR FURTHER GUIDANCE





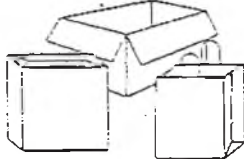
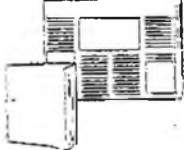
6. **Recycling Facility:** The Town shall provide a facility for the collection and storage of recyclable materials, located at a place or places to be designated by the Municipal Officers.
7. **Administration and Enforcement:** The Municipal officers or their duly-appointed agents shall administer and enforce this ordinance. The Municipal Officers shall adopt written regulations governing operation of the recycling facility, including hours, inspection of materials, and other matters pertaining to the day-to-day operation of the facility. The Municipal Officers have the further authority to negotiate and contract with any person, corporation, agency, partnership, or other entity for the disposal of recyclable materials. The Municipal officers may appoint one or more persons to assist them in determining how to best dispose of recyclable materials.

- . **Violations and Penalties:** Violations of this ordinance shall be enforced in accordance with the provisions of 30-A, M.R.S.A. 4452 as land use violations. The penalties set forth in 30-A, M.R.S.A. 4452 shall apply to violations of this ordinance. In addition to the foregoing penalty provisions, any person, firm, partnership, corporation or other entity who fails to separate the recyclable materials listed in Section 5 above from their solid waste shall be denied entry to the Town's solid waste disposal facility.
- . **Amendments:** This ordinance may be amended as provided in 30-A, M.R.S.A. 3004(4).
- 0. **Severability and Effective Date:** If any provision of this ordinance is found by a court of competent jurisdiction to be unenforceable, the remaining provisions shall continue in full force and effect. This ordinance shall become effective when adopted by a majority of the voters at any regular or special town meeting.



# Recycling Reference Chart

(You can bring these items to the facility)

	RECYCLE these materials	How to PREPARE materials	EXCLUDE these materials
<b>COLORED GLASS</b> 	Green & Brown Glass	Rinse clean Remove lids <u>Empty</u> <u>Unbroken</u> <b>NO METAL RINGS</b>	No clear glass No window glass No ceramics No light bulbs
<b>CLEAR GLASS ONLY</b> 	Clear glass bottles & jars <u>Empty - Unbroken</u>	Rinse clean Remove lids Place in recycling bin <b>NO METAL RINGS</b>	No drinking glasses No pyrex No light bulbs - No ceramics No window glass No colored glass
<b>#2 PLASTIC ONLY</b> 	Milk jugs Laundry detergent bottles Dishwashing liquid bottles Clorox bottles Shampoo bottles (blow molded)	<b>NO OIL CONTAINERS</b> Rinse and remove lids <b>MUST BE CRUSHED</b>	<div style="display: flex; align-items: center;"> <div style="flex: 1;"> <p>→ No plastic bags ←</p> <p>→ No motor oil containers ←</p> <p>→ No covers ←</p> <p>→ No yogurt containers ←</p> <p>(injection molded)</p> </div> </div>
<b>TIN CANS</b> 	Tin cans <del>Aluminum cans</del> Empty aluminum cans	Rinse clean <del>Aluminum cans</del> must be clean and empty of residue	No cans with food waste
<b>CARDBOARD</b> 	Cardboard boxes Brown paper bags Clean pizza boxes	Empty Corrugated cardboard <u>must be flattened &amp; cut into 2ft. by 3ft. Squares.</u> Food debris must be removed. Do not place out when raining or snowing	No asian cardboard No box board No cereal boxes No trash <b>NO FLAT CARDBOARD</b>
<b>NEWSPAPERS &amp; MAGAZINES</b> 	Newspapers Advertisements Magazines Telephone Books Catalogs	<del>Plastic covered newspapers</del> Do not place out when raining or snowing	No plastic bags No mixed paper <b>NO PERSONAL MAIL</b>

Recycling Center Hours: Tuesday 8-1 pm, Wednesday 8-1, Thursday 8-1pm,  
and Saturday ~~8-1~~ **8-2**

**Vehicle Stickers:** Selectmen require all vehicles to have a sticker on the windshield.

**Recycling Center:** A Recycling Attendant will be available to assist you. Remember only the listed items are acceptable and other items must be included with your household trash.

The attendant has the right to accept/refuse any items that are not recyclable.

Revised: April 4, 2000.

# NO BATTERIES. SORRY

SPECIAL TOWN MEETING

To George Bernier, Citizen of the Town of Bowdoin in the County of Sagadahoc, State of Maine:

GREETINGS:

In the name of the State of Maine, you are hereby required to notify and warn the inhabitants of the Town of Bowdoin, qualified to vote in Town Affairs, to assemble at the Bowdoin Central School on Tuesday, May 31st, 1994 at 7:00 P.M. in the evening on the following articles, to wit:

Art. 1 To choose a Moderator to preside at said meeting.

Art. 2 Shall the Town authorize the issuance of general obligation bonds or notes in an amount not exceeding \$690,000.00 in order to finance payment of certain obligations of the Town under the Interlocal Agreement creating Mid-Maine Waste Action Corporation and under its Waste Handling Agreement with MMWAC, with the dates, maturities, denominations, interest rates and other details of such bonding to be determined by the Municipal Officers.

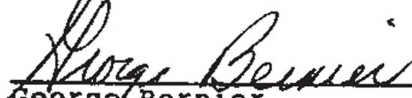
SEE ATTACHMENT #1

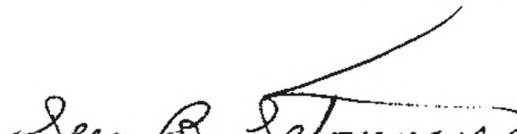
Art. 3 To authorize the Board of Selectmen to ratify the Recycling Ordinance.

SEE ATTACHMENT #2

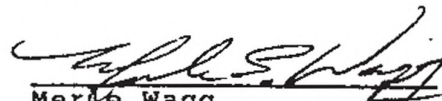
Given under our hands at Bowdoin, Maine the 21st day of May, 1994.

A TRUE COPY:  
ATTEST

  
George Bernier  
Citizen of Bowdoin

  
Leroy R. Letourneau

  
Kenneth Winter

  
Merle Wagg

Selectmen, Town of Bowdoin

## **Road Design Standards of the Town of Bowdoin**

### **Section 1: Title and Legal References**

This Ordinance shall be known as "Road Design Standards of the Town of Bowdoin" and will be referred to herein as this "Ordinance." This Ordinance is adopted under the powers granted the Town by Title 30 M.R.S.A. Section 1917 and 2151.

### **Section 2: Purpose**

Roads built in conjunction with the new subdivisions or other developments can have a major effect upon safety, municipal services, and the environment of the town. The design and construction of such roads will also effect soil erosion and water quality; the severity of periodic flooding; police and fire protection; safety conditions and traffic congestion; the visual character of the neighborhood and the town; the future use of surrounding land; and maintenance costs and requirements. It is the purpose of this Ordinance to promote the health, safety, and general welfare of the residents of the town by setting standards for design, layout, and construction of all new roads intended for use by the public, and to further the goals set out in the Comprehensive Plan of the Town of Bowdoin.

### **Section 3: Application**

The provisions of this Ordinance shall apply to all roads intended for use by the public within the Town of Bowdoin. This Ordinance shall serve as a guide to, but shall not be binding upon, any state, county, or municipal body or authority, which may layout, alter, widen, or improve any public way in accordance with applicable statutes. This Ordinance shall not apply to any existing roads, which are being used by the public as of the effective date of this Ordinance.

### **Section 4: Administration**

The Road Commissioner and the Planning Board where appropriate shall administer this Ordinance.

### **Section 5: Definitions**

In this Ordinance the present tense includes the future tense, the singular includes the plural and the plural includes the singular, "shall" is mandatory and "may" is permissive, and the following words shall have the following meanings:

- A. Construct: Includes build, place, move upon, pave, grade, or make other physical improvement operations on land. Excavation, fill, drainage and the like shall be included in this definition.
- B. Person: Any individual, firm, partnership, association, organization, trust, company, corporation, or other legal entity.
- C. Road: A public or private way for vehicular traffic in which the public has an easement or it is intended that the public have an easement.

- D. Standard Specifications: Refer to the “Standard Specifications Highway and Bridges” of the Maine State Highway Commission Revision of June 1968 and as amended.

Section 6: Written Approval:

A. Application Requirements

Before constructing any road, a person shall submit to the Planning Board and the Road Commissioner layout plans, grading plans, road profiles *showing 50' stations*, cross sections, erosion and sedimentation control plans, *list of names, addresses and assessors map and lot numbers of landowners within 1,000 feet of the lot lines of the subject property*, and such other information as may be necessary to show compliance with this Ordinance. No person shall construct or cause to be constructed any road without written approval of the plans from the Planning Board. The Planning Board shall consult with the Road Commissioner and the *Fire Chief* prior to making its determination of compliance with this Ordinance. No road plans shall be approved by the Planning Board unless they meet the provisions of this Ordinance.

B. Application Procedures

1. *Any person wishing to take any action coming within Section 3 of this Ordinance shall file a written application with the Planning Board for review, accompanied by a fee of \$300.00 for processing the application. The Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.*
2. *The Planning Board shall hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area wide circulation. The land-owners within 1,000 feet of the property lines shall be notified in writing of the hearing.*
3. *Within 30 days of the public hearing, or 60 days of receiving the completed application, the Planning Board shall either approve, approve with conditions or disapprove the application. The time limit for the review may be extended by mutual agreement between the Planning Board and the applicant.*
4. *Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.*
5. *All approvals shall be effective for a period of one year, unless the road was approved as part of subdivision approval, and may be renewed annually by the Planning Board, upon request. If the road was approved as part of subdivision approval, then the effective period shall be as approved under the Subdivision Ordinance.*



Section 7: Road Design Standards

- A. *No road shall have a right-of-way less than 50' in width except that this standard shall not apply to legally existing public 3 rod roads. ( per article 22 of Town meeting 3-7-2009)*
- B. All roads shall be designed so that they will provide safe vehicular travel and traffic patterns. Insofar as possible, roads shall conform to existing topography, and excessive cuts and fill be avoided.
- C. *All road names shall comply with the E-911 Ordinance.*
- D. At the intersections and common boundaries of subdivisions, roads shall be continuous and in alignment with exiting roads where possible. Roads shall be laid out to intersect at right angles wherever possible; under no circumstances shall a road intersect with any other road at less than a 60 degree angle.
- E. "T" intersections formed on opposite sides of the same road shall not be closer than 200 feet center line to center line.
- F. Right-of-way lines at intersections shall be laid out to provide for a paved turning radius of not less than 25 feet.
- G. Road intersections and curves shall be designed to permit adequate visibility for both pedestrian and vehicular traffic. At all changes in alignment road sidelines shall be connected by horizontal curves. All changes in slope shall be connected by vertical curves.
- H. A dead end street or cul-de-sac shall be provided with a suitable turnaround at the closed end. When turning circle is used, it shall have a minimum outside radius of 40 feet.
- I. Guardrails shall be installed in dangerous situations at the direction of the Road Commissioner. Guardrail shoulders shall be an additional three feet wider than normal shoulders, with the face of the posts set one foot back from the normal shoulder width.
- J. Grades of all roads shall be reasonably minimal but shall not be less than 6 inches per 100 feet (.5%) or more than 8 feet (8%) unless specifically approved by the Road Commissioner and the Planning Board. Maximum grade within 100 feet of all intersections shall be 3 feet per 100 feet (3%).
- K. Drainage shall be designed to prevent standing water on the paved surface or shoulder. No surface drainage shall be conveyed or diverted across a paved surface or shoulder.
- L. Where ditches are required to remove storm and surface water they shall have side slopes no greater than 3:1 and longitudinal slopes no less than 2% unless otherwise permitted by the Road Commissioner.
- M. Roads may only be located in areas known to flood if they are so designed so as to keep the road surface above water levels known or anticipated for a 25 year storm.
- N. *The surface of all roads shall have a 3 inch crown from the center line to the edge of the pavement.*
- O. Side slopes in either cut or fill situations shall not be graded steeper than 3:1. All embankments shall be loamed to a depth of not less than 4 inches, fine graded, fertilized, lime, and seeded to establish a good cover of grass.
- P. Culvert sizes shall be determined on the basis of estimated runoff from the total area served. Minimum culvert size shall be 15 inches diameter.
- Q. A monument shall be set at each point of curvature and angle point on both sides of every road. Monuments shall be of granite, 6 inches square and at least 4 feet long, or of concrete, 6 inches diameter with a ½ inch steel pin protruding from the center. The top of the monument shall be 3 inches above finished grade. Written certification by

a registered land surveyor that monuments shown on the plan have been accurately set shall be required prior to road approval.

- R. Paved widths of roads shall be a minimum of 20 feet. Shoulders shall be 3 feet on each side of the paved surface, and graded to drain water away from the pavement. A five foot wide utility strip shall be cleared of all brush and evergreen trees between the shoulders and the right-of-way line.

Section 8: Road Construction Standards

- A. Subgrade. All trees, stumps, roots and organic matter shall be removed to the full width of the paved surface and the shoulders. The subgrade shall be carefully graded and compacted as required by the Road Commissioner. Subgrade fills shall be constructed of material approved by the Road Commissioner. In no case shall any roots, stumps, trees or organic matter be used in the subgrade fills.
- B. Gravel Base. The gravel base course shall be at least 18 inches deep and shall be compacted to the satisfaction of the Road Commissioner. 24 inches of gravel or more may be required in cut sections if earth or ledge are encountered or in wet or swampy areas. Gravel shall be spread in layers not over 6 inches deep and each layer shall be thoroughly compacted before the next is laid. The top 6 inches of gravel shall conform to the Standard Specifications, Section 703.06 (a) Aggregate base. Below the top 6 inches the gravel shall conform to the Standard Specifications, Section 703.06 (b) Aggregate Sub-base. All gravel used shall be approved by the Road Commissioner prior to placement.
- C. Pavement. All roads shall be paved with bituminous concrete or other material acceptable to the Road Commissioner. The width of the pavement shall be 20 feet minimum. At street intersections the paving shall have a radius of at least 25 feet unless otherwise approved by the Road Commissioner. Bituminous Concrete paving shall conform to the Standard Specifications, Section 403 "Hot Bituminous Pavement". Aggregate for bituminous concrete shall be Grading B for the binder course and Grading C for surface course, conforming to the Standard Specifications Section 703.09. The compacted thickness of the binder course shall be 2 inches, the compacted thickness of the surface course shall be 1 inch, for a total pavement thickness, after compaction, of 3 inches.

Section 9: Variance

*All requests for Variance from the Road Design Standard shall comply with requirements outlined in the Amendment to Land Use Ordinance, Establishment of a Board of Appeals.*

Section 10: Conflict with Other Requirements

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance, or statute. Where this Ordinance imposes greater restrictions upon the use of land or structures, the provisions of this Ordinance shall control.

Section 11: Enforcement

- a. Nuisance. Any violation of this Ordinance shall be deemed a nuisance.



- b. Notice. If the Planning Board, after consultation with the Road Commissioner, finds that any provision of this Ordinance is being violated at any time, before, during, or after construction, the Planning Board shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuation of construction, removal of unacceptable fill, gravel, or pavement, regrading, and recompaction, and abatement of any nuisance conditions. A copy of such notice shall be maintained as a permanent record.
- c. Legal Action. When the Planning Board's notice does not result in prompt action to correct or abate the violation, the Selectmen, on their own or after notice from the Planning Board, are hereby authorized and directed to institute any and all actions and court proceedings, either legal or equitable, including the seeking of injunctions of violations and the impositions of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- d. Fines and Attorney's Fees. Any person who fails to take prompt action to correct or abate the violation after receiving written notice of such violations shall be subject to a fine up to \$50.00. Each day such violation exists after notice shall constitute a separate offense. If any action brought in the name of the Town under this Ordinance, the Town prevails against the person violating the Ordinance, then such person shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such Suit or action.

Section 12.     Adoption of Amendments

An amendment of this Ordinance, if in proper form, may be adopted by:

- a.     a majority vote at a regular or special Town meeting if the proposed amendment is recommended by the Planning Board or
- b.     two-thirds (2/3) majority vote at a regular or special Town meeting if the proposed amendment is not recommended by the Planning Board.

Section 13.     Validity and Severability

Should any section, clause, or provision of this Ordinance be declared by the courts to be invalid or invalid as applied, such decision shall not invalidate any other section, clause, or provision of this Ordinance.

Section 14.     Effective Date

The effective date of this Ordinance is March 10, 1979. Book 515 Page 055 Registry of Deeds in Sagadahoc. On March 12, 2005 this Ordinance was amended in Section 7 R and Section 8C. On March 7, 2009 this Ordinance was amended in Section 7 A. *On March 7, 2015 this Ordinance was amended in Section 6 A, B-1 thru B-5, replace Section 7-C, replace Section 7-N, replace entire Section 9.*

A True Copy Attested

Melanie R. Page

*Melanie R. Page*  
Bowdoin Town Clerk



**June 9, 2015**  
**SHORELAND ZONING ORDINANCE**  
**for the**  
**MUNICIPALITY of BOWDOIN, MAINE**

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- 
1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
  2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
  3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
    - normal high-water line of any great pond or river,
    - upland edge of a coastal wetland, including all areas affected by tidal action, or
    - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

**This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.**

4. **Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on 29 June 2015, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

**Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.**

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

**8. Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

**9. Districts and Zoning Map**

**A. Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- (1) Resource Protection
- (2) Limited Residential
- (3) Deleted
- (4) Deleted
- (5) Deleted
- (6) Deleted
- (7) Stream Protection

**B. Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

**C. Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

**D. Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

**11. Land Use Requirements.** Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.



## **12. Non-conformance**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

### **B. General**

- (1) Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

### **C. Non-conforming Structures**

- (1) Expansions.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.
  - (a)** Expansion of any portion of a structure within 25 feet of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.
  - (b)** Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
    - (i)** The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
  - (c)** All other legally existing nonconforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded

or altered as follows, as long as other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.

- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
  - (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
  - (iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.
  - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) **Foundations.** Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(3) Relocation, below.
- (3) **Relocation.** A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with

the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section 15(S). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (4) **Reconstruction or Replacement.** Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total footprint of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

- (5) **Change of Use of a Non-conforming Structure.** The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

#### **D. Non-conforming Uses**

- (1) **Expansions.** Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1) above.
- (2) **Resumption Prohibited.** A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) **Change of Use.** An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(5) above.

#### **E. Non-conforming Lots**

- (1) **Non-conforming Lots:** A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore



frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

- (2) **Contiguous Built Lots:** If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the *State Minimum Lot Size Law* (12 M.R.S.A. sections 4807-A through 4807-D) and the *State of Maine Subsurface Wastewater Disposal Rules* are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is nonconforming, owned by the same person or persons on the effective date of this Ordinance (1 November 1991), and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the *State of Maine Subsurface Wastewater Disposal Rules*; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### 13. Establishment of Districts

**A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed need not be included within the Resource Protection District.

- (1) **Floodplains** along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) **Areas of two or more contiguous acres** with sustained slopes of 20% or greater.

(3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

(4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

**B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District.

**C. Limited Commercial District.** Deleted

**D. General Development I District.** Deleted

**E. General Development II District.** Deleted

**F. Commercial Fisheries/Maritime Activities District.** Deleted

**G. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

**14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

**Key to Table 1:**

**Yes -** Allowed (no permit required but the use must comply with all applicable land use standards.)

**No -** Prohibited

**PB -** Allowed with permit issued by the Planning Board.

**CEO -** Allowed with permit issued by the Code Enforcement Officer

**LPI -** Allowed with permit issued by the Local Plumbing Inspector

**Abbreviations:**

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

<u>LAND USES</u>	<u>SP</u>	<u>RP</u>	<u>LR</u>	<u>DISTRICT</u> Deleted	Deleted	I
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes			
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes			
3. Forest management activities except for timber harvesting & land management roads	Re-pealed					
4. Timber harvesting	Re-pealed					
5. Clearing or removal of vegetation for activities other than timber harvesting	PB	PB1	yes			
6. Fire prevention activities	yes	yes	yes			
7. Wildlife management practices	yes	yes	yes			
8. Soil and water conservation practices	yes	yes	yes			
9. Mineral exploration	no	yes <sup>2</sup>	yes <sup>2</sup>			
10. Mineral extraction including sand and gravel extraction	no	PB <sup>3</sup>	PB			
11. Surveying and resource analysis	yes	yes	yes			
12. Emergency operations	yes	yes	yes			
13. Agriculture	yes	PB	yes			
14. Aquaculture	PB	PB	PB			
15. Principal structures and uses						
A. One and two family residential, including driveways	PB <sup>4</sup>	PB <sup>9</sup>	CEO			
B. Multi-unit residential	no	no	PB			
C. Commercial	no	no <sup>10</sup>	no <sup>10</sup>			
D. Industrial	no	no	no			
E. Governmental and institutional	no	no	PB			
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB <sup>4</sup>	PB	PB			
16. Structures accessory to allowed uses	PB <sup>4</sup>	PB	CEO			



17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland	CEO	CEO	CEO
a. Temporary	11	11	11
b. Permanent	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI
19. Home occupations	PB	PB	PB
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI
21. Essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB
A. Roadside distribution lines (34.5kV and lower)	CEO <sup>6</sup>	CEO <sup>6</sup>	yes <sup>12</sup>
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB <sup>6</sup>	PB <sup>6</sup>	PB
D. Other essential services	PB <sup>6</sup>	PB <sup>6</sup>	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB
24. Individual, private campsites	CEO	CEO	CEO
25. Campgrounds	no	no <sup>7</sup>	PB
26. Road construction	PB	no <sup>8</sup>	PB
27. Land management roads	Re-pealed		
28. Parking facilities	no	no <sup>7</sup>	PB
29. Marinas	PB	no	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO
32. Signs	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB

<sup>1</sup>In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

<sup>2</sup>Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

<sup>3</sup>In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup>Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup>Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

<sup>6</sup>See further restrictions in Section 15( L)(2).

<sup>7</sup>Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

<sup>8</sup>Except as provided in Section 15(H)(4).

<sup>9</sup>Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

<sup>10</sup>Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

<sup>11</sup>Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

<sup>12</sup>Permit not required but must file a written "notice of intent to construct" with CEO.

<sup>13</sup>Option 3 towns only.

**NOTE:** Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

**NOTE:** A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	2 Acres	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for		

Commercial Fisheries and  
Maritime Activities

Not Applicable

(ii) Within the Shoreland Zone  
Adjacent to Tidal Areas Zoned  
for Commercial Fisheries and  
Maritime Activities

Not Applicable

(iii) Within the Shoreland Zone  
Adjacent to Non-tidal Areas

2 Acres

300

**(c) Public and Private Recreational Facilities**

(i) Within the Shoreland Zone Adjacent  
to Tidal and Non-Tidal Areas

2 Acres

200

(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

(3) Lots 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 land on both sides thereof after September 22, 1971.

(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

**B. Principal and Accessory Structures**

(1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

**In addition:**

(a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

- (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- (c) Deleted
- (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area, or to cupolas, domes, widow's walks or other similar features.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent floodplain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) Deleted
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;
  - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management

Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
  - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
    - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
    - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
    - (iii) Only native species may be used to establish the buffer area;
    - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
    - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
  - (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the *Natural Resources Protection Act*, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.
- C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland, and Shoreline Stabilization**
- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
  - (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
  - (3) The location shall not interfere with existing developed or natural beach areas.
  - (4) The facility shall be located so as to minimize adverse effects on fisheries.
  - (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.

- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
  - (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
  - (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
  - (9) Deleted
  - (10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.
    - (a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.
    - (b) Revegetation must occur in accordance with Section 15(S).
  - (11) A deck over a river may be exempted from the shoreland setback requirements if it is part of a downtown revitalization project that is defined in a project plan approved by the legislative body of the municipality, and may include the revitalization of structures formerly used as mills that do not meet the structure setback requirements, if the deck meets the following requirements:
    - (a) The total deck area attached to the structure does not exceed 700 square feet;
    - (b) The deck is cantilevered over a segment of a river that is located within the boundaries of the downtown revitalization project;
    - (c) The deck is attached to or accessory to an allowed commercial use in a structure that was constructed prior to 1971 and is located within the downtown revitalization project;
    - (d) The construction of the deck complies with all other applicable standards, except the shoreline setback requirements in section 15(B); and
    - (e) The construction of the deck complies with all other state and federal laws.
- D. Campgrounds.** Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:



- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

**E. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.
- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (4) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (5) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (6) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (7) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

**F. Commercial and Industrial Uses.** The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops

- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

#### **G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities in Districts shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - (b) Internal travel aisles: Approximately twenty (20) feet wide.

#### **H. Roads and Driveways.** The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques

will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each five (5) percent increase in slope above twenty (20) percent.

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
  - (a) To provide access to structures or facilities within the zone; or
  - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote

infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (9) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- L. Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, and Limited Residential Districts:
- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

**J. Storm Water Runoff**

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

**K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

**L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

**M. Mineral Exploration and Extraction.** Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within



seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

(3) Not Applicable

(4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

**N. Agriculture**

(1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the former Maine Department of Agriculture on November 1, 2001, and the *Nutrient Management Law* (7 M.R.S.A. sections 4201-4209).

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

(4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.



- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

**O. Timber Harvesting – *Repealed on date of adoption of ordinance***

**P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove hazard trees as described in section Q..

Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- (2) Except in areas as described in Section P(1), above, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
- (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a single footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed for accessing the shoreline provided that a cleared line of sight to the water through the buffer strip is not created.
  - (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
  - (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
  - (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
  - (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent

calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision applies to the portion of a lot within the shoreland zone, including the buffer area.

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

**Q. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal**

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
  - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
  - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.
  - (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

- (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
  - (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
    - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
    - (ii) Stumps from the storm-damaged trees may not be removed;
    - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
    - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
  - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

#### **R. Exemptions to Clearing and Vegetation Removal Requirements**

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;

- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
  - (a) A coastal wetland; or
  - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
  - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;
  - (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
  - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.
- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

#### **S. Revegetation Requirements**

When revegetation is required in response to violations of the vegetation standards set forth in Section 15(P), to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except



where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:

- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:
  - (a) All trees and saplings removed must be replaced with native noninvasive species;
  - (b) Replacement vegetation must at a minimum consist of saplings;
  - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
  - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
  - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
  - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
  - (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
  - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
  - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
  - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
  - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:



- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

**T. Erosion and Sedimentation Control**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - (a) Mulching and revegetation of disturbed soil.
  - (b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
  - (c) Permanent stabilization structures such as retaining walls or rip-rap.
- (2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
  - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
  - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

- U. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe

erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

- V. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- W. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## **16. Administration**

### **A. Administering Bodies and Agents**

- (1) Code Enforcement Officer.** A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals.** A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board.** A Planning Board shall be created in accordance with the provisions of State law.

- B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1)** A permit is not required for the replacement of an existing road culvert as long as:
  - (a)** The replacement culvert is not more than 25% longer than the culvert being replaced;
  - (b)** The replacement culvert is not longer than 75 feet; and
  - (c)** Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2)** A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or

level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

### **C. Permit Application**

- (1) Every applicant for a permit shall submit a written application to the appropriate official as indicated in Section 14.

Applications to the CEO shall be on a form provided by the municipality and at minimum shall include a scaled site plan and a fee appropriate to the project.

Applications to the Planning Board must conform to requirements of the applicable Town of Bowdoin Ordinance and at a minimum include a scaled site plan, a list of names, addresses and assessors map and lot numbers of landowners within 1,000 feet of the lot lines of the subject property, and such other information as may be necessary to show compliance with this Ordinance.

The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this ordinance.

The Planning Board shall consult with the Road Commissioner and the Fire Chief prior to making its determination of compliance with this Ordinance.

No applications shall be approved by the Planning Board or Code Enforcement Officer unless they meet the provisions of this Ordinance.

- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

### **D. Procedure for Administering Permits**

#### **Code Enforcement Officer Approval**

1. Within 30 days of the date of receiving a written application, the Code Enforcement Officer shall notify the applicant in writing either that the application is complete, or, if incomplete, the specific additional material as required to complete the application.

2. The Code Enforcement Officer shall either approve, approve with conditions or disapprove the application within 30 days of finding the application complete. The time limit for review may be extended by mutual agreement between the Code Enforcement Officer and the applicant.

### **Planning Board Approval**

1. Any person wishing to take any action coming within Section 14 of this Ordinance shall file a written application with the Planning Board for review, accompanied by a fee of \$300.00 for processing the application. The Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board shall hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area wide circulation. The land-owners within 1,000 feet of the property lines shall be notified in writing of the hearing.
3. Within 30 days of the public hearing, or 60 days of receiving the completed application, the Planning Board shall either approve, approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.
5. All approvals shall be effective for a period of one year, and may be renewed annually by the Planning Board, upon request.

After the submission of a complete application with a \$300 application fee to the Planning Board and a public hearing, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Deleted
- (8) Will avoid problems associated with floodplain development and use; and

(9) Is in conformance with the provisions of Section 15, Land Use Standards.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance, or regulation or statute administered by the municipality.

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and
  - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
  - (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.
- F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.



**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## **H. Appeals**

(1) **Powers and Duties of the Board of Appeals.** The Board of Appeals shall have the following powers:

(a) **Administrative Appeals:** To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

(b) **Variance Appeals:** To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) **Variance Appeals.** Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

a. That the land in question cannot yield a reasonable return unless a variance is granted;

b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.



- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### **(3) Administrative Appeals**

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

### **(4) Appeal Procedure**

#### **(a) Making an Appeal**

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

**(b) Decision by Board of Appeals**

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - (ii) The person filing the appeal shall have the burden of proof.
  - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) **Appeal to Superior Court.** Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) **Reconsideration.** In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

## **1. Enforcement**

(1) **Nuisances.** Any violation of this Ordinance shall be deemed to be a nuisance.

### **(2) Code Enforcement Officer**

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
  - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
  - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- (3) **Legal Actions.** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) **Fines.** Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

## **17. Definitions**

**Accessory structure or use** - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit

or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agriculture** - the production, keeping or maintenance for sale or lease of plants or animals, including, but not limited to, forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables and ornamental green-house products. Agriculture does not include forest management and timber harvesting activities.

**Aquaculture** - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

**Basal Area** - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

**Basement** - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Boat Launching Facility** - a facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

**Bureau of Forestry** - State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

**Campground** - any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

**Canopy** - the more or less continuous cover formed by tree crowns in a wooded area.

**Coastal wetland** - Deleted.

**Commercial use** - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**Cross-sectional area** - the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

**DBH** - the diameter of a standing tree measured 4.5 feet from ground level.

**Development** - a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Dimensional requirements** - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

**Disability** - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

**Disruption of shoreline integrity** - *REPEALED*

**Driveway** - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

**Emergency operations** - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

**Essential services** - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

**Expansion of a structure** - an increase in the footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of use** - the addition of one or more months to a use's operating season; or the use of more footprint of a structure or ground area devoted to a particular use.

**Family** - one or more persons occupying a premises and living as a single housekeeping unit.

**Floodway** - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Floor area** - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**Footprint** - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

**Forest management activities** - *REPEALED*

**Forest Stand** - *REPEALED*

**Forested wetland** - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

**Foundation** - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.



**Freshwater wetland** - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) 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.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**Functionally water-dependent uses** - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

**Great pond** - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

**Great pond classified GPA** - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

**Ground cover** - small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

**Harvest Area** - *REPEALED*

**Hazard tree** - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the tree fails. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.



**Height of a structure** - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

**Home occupation** - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

**Increase in nonconformity of a structure** - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

**Individual private campsite** - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

**Institutional** - a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

**Land Management Road** - **REPEALED**

**Licensed Forester** - **REPEALED**

**Lot area** - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Marina** - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

**Market value** - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

**Mineral exploration** - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral extraction** - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Minimum lot width** - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

**Multi-unit residential** - a residential structure containing three (3) or more residential dwelling units.

**Native** - indigenous to the local forests.

**Non-conforming condition** - non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Non-conforming lot** - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

**Non-conforming structure** - a structure which does not meet any one or more of the following dimensional requirements; setback, height, lot coverage or footprint, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-conforming use** - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-native invasive species of vegetation** - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

**Normal high-water line (non-tidal waters)** - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

**Outlet stream** - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

**Person** - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

**Piers, docks, wharves, bridges and other structures and uses** extending over or beyond the normal high-water line or within a wetland.

**Temporary:** Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

**Permanent:** Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

**Principal structure** - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

**Principal use** - a use other than one which is wholly incidental or accessory to another use on the same lot.

**Public facility** - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

**Recent floodplain soils** - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**Recreational facility** - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

**Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

**Replacement system** - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

**Residential dwelling unit** - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

**Residual basal area** - *REPEALED*

**Residual Stand** - *REPEALED*

**Riprap** - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

**River** - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

**Road** - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

**Salt marsh** - Deleted

**Salt meadow** - Deleted

**Sapling** - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

**Seedling** - a young tree species that is less than four and one half (4.5) feet in height above ground level.

**Service drop** - any utility line extension which does not cross or run beneath any portion of a water body provided that:

(1) in the case of electric service

- (a) the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
- (b) the total length of the extension is less than one thousand (1,000) feet.

(2) in the case of telephone service

- (a) the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- (b) the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

**Setback** - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

**Shore frontage** - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

**Shoreland zone** - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

**Shoreline** – the normal high-water line, or upland edge of a freshwater or coastal wetland.

**Significant River Segments - Deleted**

**Skid Road or Skid Trail - REPEALED**

**Slash** - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

**Storm-damaged tree** - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

**Stream** - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent, highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

**Structure** – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

**Substantial start** - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

**Subsurface sewage disposal system** – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

**Sustained slope** - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

**Tidal waters – Deleted**

**Timber harvesting** - the cutting and removal of timber for the primary purpose of selling or processing forest products. "Timber harvesting" does not include the cutting or removal of vegetation within the shoreland zone when associated with any other land use activities. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.



**Timber harvesting and related activities- *REPEALED***

**Tree** - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

**Tributary stream** – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

**Upland edge of a wetland** - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) tall or taller.

**Vegetation** - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

**Velocity zone** - Deleted

**Volume of a structure** - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

**Water body** - any great pond, river or stream.

**Water crossing** - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

**Wetland** - a freshwater or coastal wetland.

**Windfirm** - *REPEALED*

**Woody Vegetation** - live trees or woody, non-herbaceous shrubs.



STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

**EFFECTIVE DATE:**

January 13, 1988 (filed as 06-101, Ch. 1)

**AMENDED:**

March 24, 1990 (filed as 06-096, Ch. 1000)

June 19, 1991 - Sections 15 and 17

July 14, 1992 - Sections 4, 8, 9, 12, 15, 16 & 17

August 7, 1994 - Sections 3, 14 & 16

**EFFECTIVE DATE (ELECTRONIC CONVERSION):** May 5, 1996

**NON-SUBSTANTIVE CORRECTIONS:**

December 29, 1997 - minor spelling and formatting.

April 1, 1998 - minor renumbering and formatting.

**AMENDED:**

February 6, 1999

February 13, 2000

May 1, 2006 – filing 2006-115

November 22, 2010 – filing 2010-581

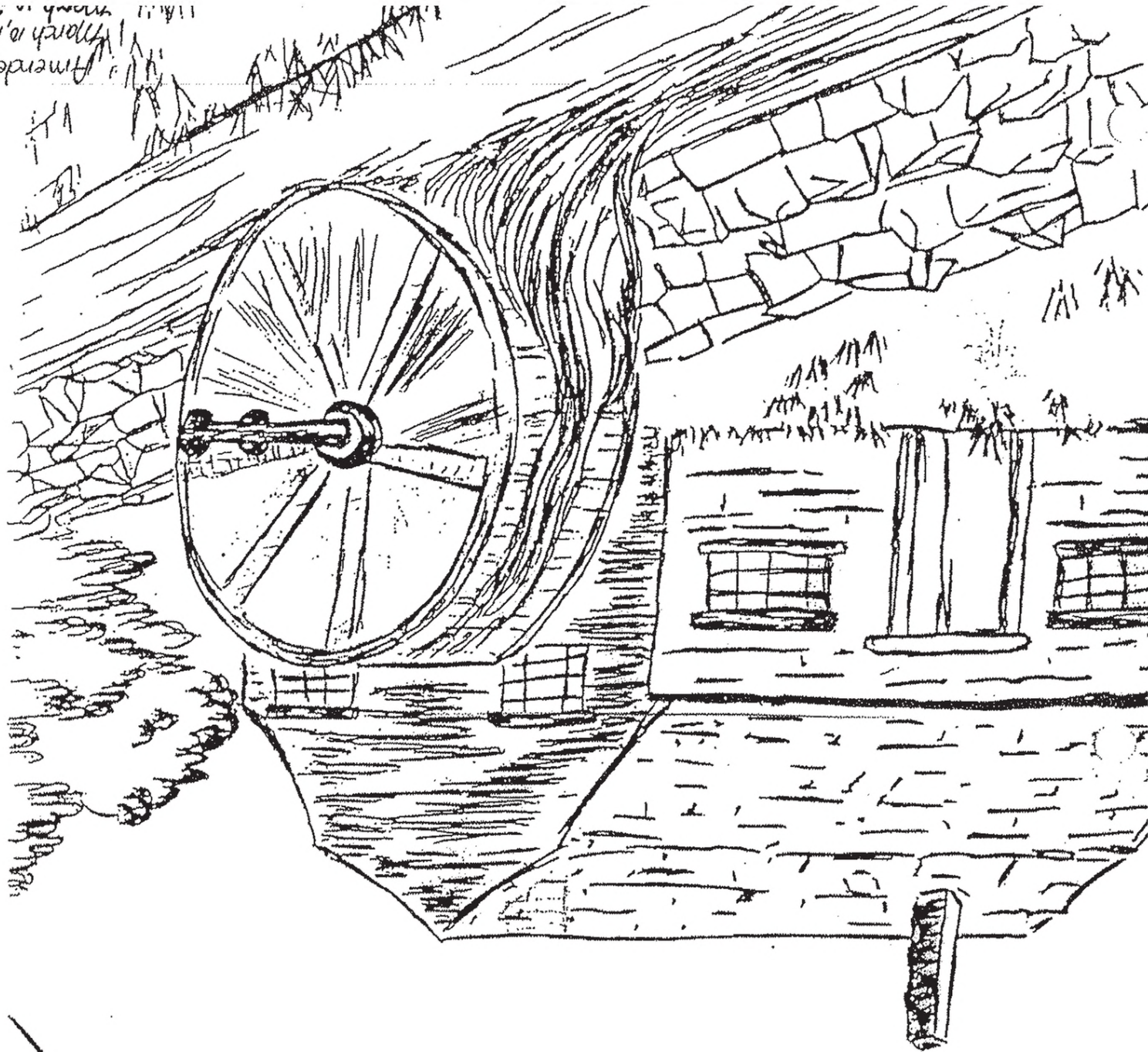
May 5, 2012 – filing 2012-134

January 26, 2015 – filing 2015-009

*I hereby certify this  
is an attested copy  
Passed on June 29, 2015  
Melanie R. Page  
Town Clerk*



Amended:  
March 10, 1998  
March 10, 2012



Plan  
Site  
Review  
Site &

Bowdoin

## SITE PLAN REVIEW ORDINANCE OF THE TOWN OF BOWDOIN

### Section 1: Title and Legal Reference

This Ordinance shall be known as "Site Plan Review Ordinance of the Town of Bowdoin" and will be referred to herein as this "Ordinance." This Ordinance is adopted under powers granted the Town by Title 30 M.R.S.A. §§1917 and 2151.

### Section 2: Purpose

Substantial development or major changes in the uses of land can cause a profound effect upon the cost and efficiency of municipal services and upon the environment of the town. Such development can affect schools, sewers, waterlines and other public utilities; recreational facilities; liquid and solid waste disposal; police and fire protection, open space, road systems and circulation, traffic congestion; placement of buildings and structures; property values; water quality; the aesthetic and visual characteristics of the neighborhood and town, and the general health, safety, and welfare of the community. It is the purpose of this ordinance to control the effect of developments including commercial, retail, industrial and institutional buildings and structures and multiple family dwellings consisting of three or more attached dwelling units as well as to further the goals set out in the Comprehensive Plan of the Town of Bowdoin.

### Section 3: Administration

- A. The Planning Board of the Town of Bowdoin shall administer this Ordinance.
- B. No building permit or plumbing permit shall be issued by the Building Inspector or Plumbing Inspector for any use or development within the scope of this Ordinance until a Site Plan of Development Application has been approved by the Planning Board.

### Section 4: Applicability

This Ordinance shall apply to all proposed changes in use, construction or alterations to new or existing, commercial, retail, industrial, institutional buildings, structures, multiple family dwellings, and land, and their accessory uses and structures. This Ordinance does not apply to detached single or two family dwelling units, agricultural land management practices, forest management practices, or buildings used for agricultural or farming purposes which are placed upon land of no more than 5,000 square feet.



## Section 5: Definitions

In this Ordinance the present tense includes the future tense, the singular includes the plural and the plural includes the singular, "shall" is mandatory and "may" is permissive, and the following words shall have the following meanings:

- A. Accessory Use or Structure. A subordinate use of a building, other structure or land, or a subordinate building or other structure:
  - 1. Whose use is customary in connection with the principal building, other structure or use of land; and
  - 2. Whose use is clearly incidental to the use of the principal building, other structure or use of land; and
  - 3. Which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.
- B. Agricultural Land Management Practices. Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- C. Alteration. Structural changes, rearrangement, change of location, or addition to a building, or structure other than repairs and modification in building equipment, involving more than 25% increase in the overall floor space or bulk of the building or structure at any time or in total since the effective date of this Ordinance.
- D. Building. Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.
- E. Commercial. Connected with or engaged in the buying, selling, leasing or renting of goods, services, facilities or land.
- F. Dwelling Unit. Any structure used or designed to house a single family and shall include those structures used permanently or seasonally.
- G. Family. One or more persons occupying a structure and living as a single housekeeping unit.
- H. Forest Management Activities. Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting, and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation, or maintenance of land management roads.

- I. Goods. All things whether real or personal and whether movable or not movable.
- J. Industrial. Connected with or engaged in the assembling, producing, fabricating, finishing, storing, manufacturing, packaging or processing of goods or the extraction of minerals or the disposal of waste materials.
- K. Institutional. A building devoted to some public, governmental, education, charitable, medical or similar purpose.
- L. Multiple Family Dwelling. A building consisting of three or more attached dwelling units whether used permanently or seasonally. -
- M. Person. Means any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, state agency, education or charitable organization or institution or other legal entity.
- N. Retail. Connected with or engaged in the sale of goods to the ultimate consumer for direct use and consumption and not for trade.
- O. Structure. Anything constructed, erected, or placed except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground including, but not limited to buildings, mobile homes, and land on which goods are located.

#### Section 6: Site Plan Content and Application Procedures

- A. The Site Plan of Development Application shall include as a minimum:
  - 1. A map or maps prepared at a scale of not less than one (1) inch to fifty (50) feet and shall include:
    - a. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest;
    - b. existing soil conditions as described by either a soil scientist, geologist, engineer or S.C.S. medium intensity soil surveys;
    - c. municipal tax maps and lot numbers and names of abutting landowners within 1,000 feet of lot lines;
    - d. perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. Areas within 200 feet of the proposed development site shall be included;



- e. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way;
  - f. location, ground floor area and elevations of buildings and other structures on parcels abutting the site;
  - g. if the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;
  - h. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site on to public streets and curb and sidewalk lines;
  - i. landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;
  - j. topography indicating contours at intervals of 5 feet in elevation;
  - k. location of aquifers and aquifer recharge areas as well as surface water bodies and wetlands.
2. A written statement by the applicant that shall consist of:
- a. evidence by the applicant of his title and interest in the land for which the application covers;
  - b. a detailed description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;
  - c. total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
  - d. summary of existing and proposed easements, restrictions and covenants placed on the property;
  - e. method of solid waste disposal;
  - f. erosion and sedimentation control plan;
  - g. copies of letters to the abutting landowners within 1,000 feet of lot lines, the selectmen, the road commissioner, the Building Inspector, and the Plumbing Inspector, notifying them of the proposed development;

- h. statement of financial capacity which should include the names and sources of the financing parties including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both;
- i. the applicant's evaluation of the availability and suitability of off-site public facilities including water and streets;
- j. a statement as to the availability of fire hydrants and/or fire ponds, or provision of fire protection services;
- k. a statement from the Road Commissioner that the proposed road or street construction will meet town specifications;
- l. a detailed description of the quantity and type of emissions of dust particles, smoke, other particulate matter as well as fumes and odors, toxic gases or other substances which may have an adverse effect on the surrounding earth, water or air or environment;
- m. an estimate of the date when construction will start and when the development will be completed.

### 3. Requests for Additional Information

Prior to its final decision, the Planning Board may request evidence and documentation in addition to that required above. This additional information may include:

- a. Impact on community services. The Planning Board may request information regarding the effect upon existing services and facilities; and a list of construction and maintenance items that may be borne by the municipality, which shall include, but not be limited to: schools, including busing; road maintenance and snow removal; police and fire protection; solid waste disposal; sewer system; recreation facilities; storm water management facilities. The Board may further request the applicant to provide accurate cost estimates to the Town for the above services, and the expected tax revenue of the development.
- b. Impact on sensitive natural and cultural resources. The Planning Board may also request, prior to its decision, that the applicant submit an assessment of the expected impacts of the development on sensitive natural and cultural resources, which shall include, but not be limited to: surface water bodies;

Identified gravel and bedrock, groundwater  
Aquifers and recharge areas: one hundred year  
floodplain as identified by the H.U.D. Flood Insurance  
Program: highly erodible soils: slopes greater than fifteen percent:  
Non-discharge soils as identified by the State Plumbing Code:  
Fragile or irreplaceable natural area: historic and archeological sites:  
visual character and areas of scenic or natural beauty.

B. Application Procedures

1. Any person wishing to take any action coming within Section 4 of this Ordinance shall file a written application with the Planning Board for review, accompanied by a fee of \$300.00 (per article 20 of Town meeting 3-10-2012) for processing the application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
2. The Planning Board shall (per article 23 Town meeting 3-10-1990) hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date, and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area wide circulation. The abutting land-owners shall be notified of the hearing.
3. Within 30 days of the public hearing or 60 days of receiving the completed application, the Planning Board shall either approve, approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
4. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.
5. All approvals shall be effective for a period of one year, and may be renewed annually by the Planning Board, upon request.

Section 7: Performance Standards

- A. The following standards are to be used by the Planning Board in judging the applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgement of the Planning Board the applicant is not able to reasonably

meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

1. Preserve and Enhance the Landscape: The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the buildings or site and to minimize the encroachment of the proposed use on neighboring land uses.
2. Relationship of the Proposed Buildings to Environment: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the buildings and such natural features as slope, soil type and drainage ways.
3. Vehicular Access: The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, and traffic signals when required by existing and projected traffic flow on the municipal roads.
4. Parking and Circulation: The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.
5. Surface Water Drainage: Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.
6. Existing Utilities: The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.
7. Advertising Features: The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.

8. Special Features of the Development: Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to minimize their adverse impact on other land uses within the development area and surrounding properties.
9. Exterior Lighting: All exterior lighting shall be designed to minimize adverse impact on neighboring properties.
10. Emergency Vehicle Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
11. Municipal Services: The development will not have an unreasonable adverse impact on the municipal services including solid waste systems, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
12. Will not result in undue water pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other D.E.P. approved licensed discharge; the slope of the land and its effect on effluents; the aquifers and aquifer recharge areas; the availability of streams for disposal of surface run-off; and the applicable federal, state and local laws, ordinances, codes and regulations.
13. Will not result in undue air pollution. In making this determination it shall consult federal and state authorities to determine applicable air quality laws and regulations.
14. Has sufficient water available for the reasonably foreseeable needs of the development.
15. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
16. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
17. Will provide for adequate sewage waste disposal.
18. Will not have an undue adverse effect on the scenic or natural beauty of the area, open space, aesthetics, historic sites or rare and irreplaceable natural areas.
19. The applicant has adequate financial and technical capacity to meet the above standards.



## Section 8. General Provisions

- A. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting land owners and the general health, safety and welfare of the town.
- B. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- C. All construction performed under the authorization of any approval or permit issued for development within the scope of this ordinance shall be in conformance with the approved site plan.

## Section 9. Trust Account Fee

Every application shall be accompanied by the payment of \$100 for each dwelling or commercial unit or for every 2,000 square feet of structure within the development, which ever results in the largest total. For purposes of this Section, "structure" shall mean floor space of buildings to be constructed or erected with a fixed location on or in the ground or attached to something on or in the ground and, in addition, shall include parking lots, roads, paved areas, wharves, gravel pits, ponds, or areas to be stripped, filled or graded and not to be revegetated. The checks shall be made payable to the Bowdoin Planning Board.

The Planning Board shall deposit the applicant's Trust Account fee in a special bank account which is separate and distinct from all other Planning Board and municipal accounts.

The Planning Board may from time to time withdraw from the Trust Account in order to make reasonable payment for costs, expenses and services incurred by or contracted for by the Planning Board at its discretion which relate directly to the review of the application under the terms of these regulations; which relate directly to the inspection of the development after approval; or which relate directly to the efforts of the Planning Board and municipal officials to assure that the development complies with any regulations and ordinances of the Town of Bowdoin. Such services may include, but not be limited to: clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees.

The Planning Board shall provide the applicant with a quarterly accounting of this account and shall refund all of the remaining monies in the account upon the payment of all costs and services related to the development and upon the application denial or if approved upon the development's completion and compliance with all the terms of the regulations and ordinances of the Town of Bowdoin and conditions of approval. The refund shall be accompanied by a final accounting by the Planning Board.



The applicant shall not be liable for costs incurred by or costs of services contracted for by the Planning Board which exceed the amount of the Trust Account Fee. If the same or similar Trust Account Fee is required by any other Town ordinance or regulation, the Trust Account requiring the larger amount shall be necessary.

#### Section 10. Violation, Enforcement and Fines

- A. Any violation of this Ordinance including failure to comply with conditions of approval shall constitute a nuisance.
- B. Violation and Enforcement: The Planning Board upon a finding that any provision of this Ordinance or the conditions of approval issued under this Ordinance are being violated is authorized to institute legal proceedings, either legal or equitable, including the seeking of injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- C. Fines and Attorneys' Fees: Any person who violates this Ordinance shall be subject to a fine of up to \$50. Each day such violation exists shall constitute a separate offense. If in any action brought in the name of the Town under this Ordinance, the Town prevails against the person violating the Ordinance, then such person shall be liable and responsible for the Town's legal fees and court costs and any other costs involved in bringing such suit or action.

#### Section 11. Conflict with Other Requirements

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other regulation, permit, ordinance or statute. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

#### Section 12. Adoption of Amendments

An amendment to this Ordinance if in proper form may be adopted by:

- A. A majority vote at a regular or special Town meeting if the proposed amendment is recommended by the Planning Board, or
- B. two thirds (2/3) majority vote at a regular or special Town meeting if the proposed amendment is not recommended by the Planning Board.

#### Section 13. Validity and Severability

Should any section, clause or provision of this Ordinance be declared by the courts to be invalid or invalid as applied, such decision shall not invalidate any other section, clause or provision of this Ordinance.

#### Section 14. Effective Date

The effective date of this Ordinance is March 10, 1979.

*A True Copy  
Attested:  
Melanie B. Page  
Bowdoin Town Clerk*

# **Subdivision Ordinance of the Town of Bowdoin**

**March 7, 2009**

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## ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

### 1.1 *Purposes.*

The purposes of this Ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Bowdoin meets the goals and conforms to the policies of the *Town of Bowdoin Comprehensive Plan*;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Bowdoin;
- D. To protect the environment and conserve the natural and cultural resources identified in the *Town of Bowdoin Comprehensive Plan* as important to the community;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts of new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

### 1.2 *Statutory Review Criteria.*

When reviewing any application for a subdivision, as defined by Article 3, the Planning Board shall consider the criteria found in Title 30-A M.R.S.A. §4404 and determine that these criteria have been met, as well as all applicable provisions of town ordinances and other sections of this Ordinance, before granting approval. In addition, the Planning Board shall determine that the proposed subdivision will not cause unreasonable or unsafe conditions with respect to the use of private roads.

## ARTICLE 2 - AUTHORITY AND ADMINISTRATION

### 2.1 *Authority.*

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A. §4403, Title 30-A M.R.S.A., §3001, and Article VIII, Part 2, Section 1 of the Maine Constitution.
- B. These standards shall be known and may be cited as the "*Subdivision Ordinance of the Town of Bowdoin.*"

### 2.2 *Administration.*

- A. The Planning Board of the Town of Bowdoin, hereinafter called the Board, shall administer this Ordinance.
- B. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Bowdoin.

### 2.3 *Amendments.*

- A. This Ordinance may be amended by the Bowdoin Town Meeting.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided and copies of the proposed amendment shall be available at least seven days in advance of the hearing.

### 2.4 *Conflicts with Other Ordinances.*

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

### 2.5 *Effective Date*

This ordinance becomes effective upon passage by the Bowdoin Town Meeting, and it repeals and replaces "*Regulations Governing the Review of Subdivision Applications in the Town of Bowdoin*" that took effect August 23, 1977, and all amendments thereto.



## ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. Other words and terms used herein are defined as follows:

**Applicant:** The person applying for subdivision approval under this Ordinance.

**Application Form:** Forms provided by the Town for the purpose of applying for a subdivision.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Building Envelope:** A building envelope is that area on a lot within which the principal buildings must be contained. It is defined by setbacks from front, side, and rear lot and street right of way lines and environmental constraints such as wetlands, waterbodies, and steep slopes.

**Buffer Area:** A part of a property or an entire property which is not built upon and is specifically intended to separate a land use activity and its effects (e.g. noise, dust, visibility, glare, runoff etc.) from adjacent properties and sensitive natural resources.

**Common Land:** Land within or related to a subdivision, not individually owned or within an individual residential lot, which is designed and intended for: (a) formal uses such as walkways, parks and greens; (b) recreational uses such as playgrounds, fields and courts for the common use and enjoyment of the residents of the subdivision, or if so designated by the applicant in the subdivision plan, for use by the general public; or (c) natural uses such as wildlife habitat preservation, wood lots, buffer zones, and preservation of scenic features and natural views. Common open space is intended to help preserve the Town's rural character, protect natural features and habitat, provide an attractive living environment for the residents of the subdivision, and where applicable, for the general public. It may include complementary structures and improvements, typically used for maintenance and use of the open space, such as for outdoor recreation or agricultural use.

**Complete Application:** An application shall be considered complete when the Board issues a written statement to the applicant indicating that the applicant has submitted the required fee and all information required by this Ordinance excepting specific information that was waived by a vote of the Board in response to the applicant's written request for a waiver.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than thirty percent of the costs of the required improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the applicant, the cost of construction of buildings on those lots shall not be included.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to a Great Pond without first passing through an upstream Great Pond. For the purposes of this Ordinance, the watershed boundaries shall be as delineated in the *Town of Bowdoin Comprehensive Plan*, or as depicted in the drainage divide data layer provided by the Maine Office of Geographic Information Systems. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board, or its designee, and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a licensed professional land surveyor showing where the drainage divide lies.

**Driveway:** A vehicular accessway serving no more than 2 dwellings. Driveways do not constitute “roads” for purposes of calculating road frontage.

**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 for one family. Dwelling unit includes single family houses, mobile homes, and the individual units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher Biological Oxygen Demand (BOD<sub>5</sub>) and total suspended solids concentrations than domestic waste water.

**Floodway:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar 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 considered 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.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

## ARTICLE 3 - DEFINITIONS

**100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

**High Water Mark:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and Great Ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or Great Pond during the period of normal high-water are considered part of the river or Great Pond.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with industry standards. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Mapped Aquifer Recharge Area:** A sand and gravel aquifer as shown on maps prepared by the Maine Geological Survey, entitled *Hydrogeologic Data for Significant Sand and Gravel Aquifers* (Bowdoinham Quad, Open File 04-80; Lisbon Falls North Quad, Open File 99-23 or most current version thereof).

**Municipal Engineer:** Any licensed professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Net Residential Area:** The portion of a parcel that is used to determine the allowable density of a subdivision. Article 10.6.A.2 lists those areas of a parcel that must be excluded from the calculation of allowable density, such as steep slopes, wetlands, and certain types of habitat.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Planning Board:** The Planning Board of the Town of Bowdoin.

**Preliminary Plan:** The preliminary drawings submitted to the Planning Board for its consideration indicating the proposed layout of the subdivision.

**Professional Engineer:** A professional engineer, licensed in the State of Maine.

**Professional Land Surveyor:** A professional land surveyor, licensed in the State of Maine.

**Public Water System:** A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

**Public Water Utility:** A utility, whether publicly or privately owned, that provides water to residential, commercial, and/or industrial users and is regulated by the Maine Public Utilities Commission.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which shows information relevant to the transfer of an interest in the property and information deemed necessary by the Planning Board.

**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

**Significant Wildlife Habitat:** Significant wildlife habitat shall be as defined by Inland Fisheries and Wildlife (09-137 C.M.R. 10).

**Stream or Brook:** Stream or brook means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

“Stream or brook” does not mean a ditch, grassy swale, or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water.

**Road:** A street.

**Sight Distance:** The length of an unobstructed view measured from the driver’s seat of a vehicle standing on that portion of an exit with the front of the vehicle a minimum of ten (10) feet behind the pavement or edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.25 feet above the road surface at the center of the traveled way. The term is used in this Ordinance as a reference for meeting unobstructed road visibility requirements.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Soil Survey, High Intensity (Class A):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Soil Survey, High Intensity (Class B):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to one acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits

and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Soil Survey, Medium High Intensity (Class C):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to five acres or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Steep Slopes:** Slopes of 25% or more.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Street Classification:**

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways are examples of arterial streets: Routes 201, 138, and 125.

**Collector Street:** A street with average daily traffic of 500 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor residential streets.

**Cul-de-sac:** A street with only one outlet and a circular turn-around at the end.

**Minor collector:** Streets which collect traffic from streets that are not arterials or collectors as defined above.

**Subdivision:** The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended.

**Subdivision, Major:** A subdivision containing more than four lots and/or dwelling units.

**Subdivision, Minor:** A subdivision containing no more than four lots and/or dwelling units. If a road or other public water or sewer facilities are proposed, the Planning Board may require that the subdivision be reviewed as a major subdivision.

**Town:** The Town of Bowdoin, Maine.

**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 are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

**Usable Open Space:** That portion of the common land which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or contain areas with sustained slopes exceeding 10%.

### ARTICLE 3 - DEFINITIONS

**Vernal Pool:** A vernal pool, also referred to as a seasonal forest pool, is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer.

**Vernal Pool, Significant:** Significant vernal pools shall be as defined in the Maine Department of Environmental Protection's rules (06-096 C.M.R. 335).

**Wetland:** A freshwater wetland, as defined by the Maine Natural Resource Protection Act, means fresh water swamps, marshes, bogs and similar areas that are: inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and not considered part of a Great Pond, coastal wetland, river, stream or brook. (Title 38 M.R.S.A. §480-B, or as amended).



**ARTICLE 4 - ADMINISTRATIVE PROCEDURE**

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, applicants proposing subdivisions shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any subdivision application not appearing on the Board's written agenda.

## ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

### 5.1 *Purpose.*

The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

### 5.2 *Sketch Plan Meeting Procedure.*

- A. The applicant shall present the Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection shall be selected.
- D. Water District: The Planning Board shall notify the water district of this meeting if any portion of the subdivision is located within the mapped aquifer recharge area of the water district's supply or if the subdivision intends to utilize the district's water supply system.

### 5.3 *Sketch Plan Submissions.*

Eleven (11) copies of the sketch plan and all supporting materials must be submitted 10 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on, or accompanied by, a copy of the Assessor's Map(s) on which the land is shown. The sketch plan shall be accompanied by:

- A. A sketch plan application form and a non-refundable sketch plan application fee of \$100;
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- C. A copy of that portion of the Sagadahoc County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

### 5.4 *On-Site Inspection.*

Within thirty days of the sketch plan meeting, or at such other time as may be mutually agreed to by the Board and the applicant, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval and the class of soils survey to be provided on the Preliminary Plan or Final Plan, in the case of a minor subdivision. The applicant shall place "flagging" at the centerline of any proposed streets,

and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings to be constructed by the applicant, the approximate corners of proposed building footprints shall be “flagged.” The Board may choose not to conduct on-site inspections when there is inclement weather and may delay the on-site inspection during winter until the ground is bare. Public notice of on-site inspections shall be given as required by Title 1 M.R.S.A. §401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

**5.5      *Rights Not Vested.***

The sketch plan meeting, the submittal and review of the sketch plan, and the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A. §302. As applied here, this means the sketch plan review does not constitute a substantive review that triggers vested rights.

**5.6      *Establishment of File.***

Following the sketch plan meeting, the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and application shall be maintained in the file.

## ARTICLE 6 - PRELIMINARY PLAN APPLICATION

### 6.1 *Procedure.*

- A. No more than six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a Preliminary Plan. The Preliminary Plan must be submitted at least 10 days prior to a scheduled meeting of the Board to be considered at that meeting. The applicant shall deliver 11 complete copies of the Preliminary Plan application, plus all accompanying information, in the following manner: one copy to each Planning Board member by Registered Mail and the remaining copies to the Town office. Failure to submit an application within six months of the on-site inspection shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

If an applicant cannot submit the Preliminary Plan within six months due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. A request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. The request for an extension shall state the reason for the delay and set forth a timetable for Preliminary Plan submission. In acting on the request for an extension, the Board shall make findings regarding whether the applicant has made due progress in preparing the Preliminary Plan and pursuing approval of the plans before other agencies. The Board may grant a maximum of two 90-day extensions.

- B. All applications for Preliminary Plan approval shall be accompanied by a nonrefundable application fee of \$150 per residential lot or \$150 per dwelling unit if the subdivision consists of a building with multiple dwelling units. The fee shall be payable by check to the Town of Bowdoin. In addition, the applicant shall pay a fee of \$250 per lot or dwelling unit to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with all applicable Town ordinances. This money for hiring consulting services will be deposited in a special escrow account designated for that subdivision application. If the balance in this special escrow account is drawn down by 75%, the Board shall notify the applicant that they must pay additional fees to return the balance to the original deposit amount. The Board shall continue to notify the applicant and require additional monies as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the Final Plan application by the Board shall be returned to the applicant within 90 days.
- C. The Board shall not review any Preliminary Plan application unless the applicant or applicant's representative attends the meeting. If the applicant or applicant's representative fails to attend, the applicant shall contact the Board to reschedule review of the application at a future, regularly scheduled meeting.
- D. At the meeting at which an application for Preliminary Plan approval is initially presented, or within seven days thereafter, the Planning Board shall do the following:
1. Issue a dated receipt to the applicant.
  2. Notify in writing by First Class Mail all property owners within 1,000 feet of the boundaries of the subdivision that an application for subdivision approval has

- been submitted. The notice shall specify the location of the proposed subdivision and include a general description of the project.
3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. If at any time, the applicant wishes to bring additional information before the Board, 11 copies of the supplemental information must be submitted to the Planning Board members and the Town office according to the procedures described in Article 6.1.A.
- F. Within thirty days of the receipt of the Preliminary Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- G. Upon determination that a complete application has been submitted for review, the Board shall notify in writing the CEO, Road Commissioner, Fire Chief, and Superintendent of Schools of the proposed subdivision. The notice shall include the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- H. The Board shall hold a public hearing within thirty days of determining that it has received a complete application. It shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to all property owners within 1,000 feet of the boundaries of the proposed subdivision and to the applicant, at least ten days prior to the hearing.
- I. No more than thirty days after the public hearing, or at such other time as may be mutually agreed to by the Board and the applicant, the Board shall make a decision on the application, including waiver requests. The Board may continue the public hearing to gather more evidence or may schedule an additional hearing as needed. In its decision, it shall make findings of fact and approve, approve with conditions, or deny the Preliminary Plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- J. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to the following:
1. The specific changes which it will require for the Final Plan;
  2. A list of required improvements and submission requirements for which waivers were requested by the applicant and which the Board finds may be waived without jeopardy to public health, safety, and welfare. This shall include a description of the nature and extent of each waiver granted; and

3. The required improvements and construction items for which cost estimates and performance guarantees will be required as a prerequisite to approval of the Final Plan.

- K. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan. Rather, it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted to the Board for approval upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional information and changes in the plan as a result of further study of the proposed subdivision or as a result of new information received.

**6.2 *Mandatory Submissions for Preliminary Plan.***

The following items shall be submitted as part of the Preliminary Plan Application (see Article 6.1 for submission procedures) excepting those items for which the applicant submits a written waiver request in accordance with Article 12. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance are met.

- A. Application Form.  
Eleven copies of the application form and all accompanying information.
- B. Location Map.  
The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
  1. Existing subdivisions within 1,000 feet of the proposed subdivision.
  2. All lots, including Map and Lot number, within 1,000 feet of the proposed subdivision.
  3. Locations and names of existing and proposed streets.
  4. Boundaries and designations of zoning districts.
  5. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary Plan. The Preliminary Plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can be read easily. Plans shall be 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderlines on the left side for binding and a one-inch margin outside the border along the remaining sides. The application materials for Preliminary Plan approval shall include the following information which must be shown on the Plan, except as noted.
  1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.



2. Verification of the applicant's right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. (Not shown on 24 x 36 Plan.)
3. A boundary survey of the parcel to be subdivided, giving complete descriptive data by bearings and distances, made and signed by a Licensed Professional Land Surveyor. The corners of the parcel and the centerline of the roads shall be located on the ground and marked on the site by suitable temporary markers. All contiguous land in common ownership within the prior five years shall be depicted on the plan, but is not required to be surveyed.
4. A copy of the most recently recorded deed for the parcel. A copy of all legal documents establishing deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. (Not shown on 24 x 36 Plan.)
5. A copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision. (Not shown on 24 x 36 Plan.)
6. An indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator or Maine Licensed Soils Scientist shall be provided. (Not shown on 24 x 36 Plan.) The location of all passing soil test pits dug on the site shall be shown on the Plan.
7. An indication of the type of water supply system(s) to be used in the subdivision. (Not shown on 24 x 36 Plan.)
  - a. When water is to be supplied by a public water utility, a written statement from the servicing water utility shall be submitted indicating there is adequate supply and pressure for the subdivision and the district has reviewed and approved the water system design.
  - b. A description of fire protection measures, including a letter from the Bowdoin Fire Chief approving all hydrant locations and/or other fire protection measures.
  - c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, individual or company who prepared the plan, and property owners within 1,000 feet of the boundaries of the proposed subdivision. (Not shown on 24 x 36 Plan)
10. Wetland areas shall be delineated on the survey, regardless of size, by a Wetland Scientist who has experience and training in soils and wetland vegetation, in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.

12. The location of all rivers, streams, brooks, and significant vernal pools within the proposed subdivision, including direction of flow of all rivers, streams, and brooks. If any portion of the proposed subdivision is located in the direct watershed of a Great Pond, the application shall indicate into which Great Pond the area drains.
13. The location of any zoning boundaries within the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, utilities, and drainage ways on, adjacent to, or servicing the property to be subdivided.
15. The location, names, and current widths of existing streets and highways within or immediately adjacent to the proposed subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line within the subdivision to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established, if available.
  - a. A written description of the travel surface and condition of existing streets and highways within or immediately adjacent to the proposed subdivision. (Not shown on 24 x 36 Plan.)
16. The location, size, and names of easements, rights of ways, deed restricted areas, encumbrances, and public recreation areas, existing or proposed, on or adjacent to the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. The location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common land to be created. A general description of proposed ownership, improvement, and management of such areas should be provided (Not shown on 24 x 36 Plan).
20. On each lot, the location of the building envelope, the area where existing forest cover may be removed and converted to lawn, structures or other cover, and areas where restrictions are proposed to be placed on clearing existing vegetation.
21. If any portion of the subdivision is in a flood-prone area, the boundaries of flood hazard areas and the base flood elevation, as determined from *FEMA Flood Boundary and Floodway Maps* and *Flood Insurance Rate Map – Town of Bowdoin, Maine*. The requirements of Article 10.10 Floodplain Management must also be met.
22. Letters and associated information from the Maine Natural Areas Program and Maine Department of Inland Fisheries and Wildlife confirming the presence or absence of any areas within or adjacent to the proposed subdivision which have been identified as unique natural areas by the Maine Natural Areas Program, or as significant habitat by the Maine Department of Inland Fisheries and Wildlife

(see Article 10.6 for details). If any portion of the subdivision is located within an area so designated by the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife, the plan shall indicate appropriate measures for preservation of the values which qualify the area for such designation. (Not shown on 24 x 36 Plan.)

23. Identification of any important historic, cultural, or natural features within or adjacent to the proposed subdivision that are identified in the Bowdoin Comprehensive Plan. A description of measures proposed to preserve the values of these features shall be provided. (Not shown on 24 x 36 Plan).
24. Letters and associated information from the Maine Historic Preservation Commission identifying whether there are any areas within or adjacent to the proposed subdivision which are either: listed on or eligible to be listed on the National Register of Historic Places; or, identified by the Maine Historic Preservation Commission (MHPC) as sensitive cultural or archaeological sites. If the MHPC believes the proposed subdivision may contain sensitive archaeological sites, the applicant shall conduct and submit a preliminary archaeological survey. (Not shown on 24 x 36 Plan.)
25. The location of any existing streams, ponds, or proposed water storage tanks that would provide a suitable water supply for fire protection to the subdivision in accordance with Article 10.2.A.3.d.
26. A high intensity soils survey prepared by a Maine Certified Soils Scientist. The Planning Board will determine whether major subdivisions will submit a Class A or Class B high intensity soils survey. Minor subdivisions may submit a Class C soils survey unless the Planning Board requires a higher intensity survey. The Planning Board shall require a Class A soil survey for the following: (1) any roads, driveways, and areas within the building envelope that have soils rated as having “somewhat limited” or “very limited” suitability for dwellings with basements or local roads and streets by the Natural Resources Conservation Service; and, (2) areas with steep slopes or other features that could create hydrologic or environmental problems.
27. A stormwater management plan prepared in accordance with the requirements of Article 10.12 of this Ordinance.
28. A copy of deed covenants and other legal documents pertaining to the ownership and maintenance of private roads by a lot owners’ association or similar entity. These documents must meet the requirements of Article 10.16. (Not shown on 24 x 36 Plan.)
29. The location and method of disposal of debris from land clearing, construction, and required improvements. (Not shown on 24 x 36 Plan.)
30. Evidence of financial capacity to undertake the proposed subdivision, including information such as the following, when appropriate (Not shown on 24 x 36 Plan.):
  - a. Accurate and complete cost estimates of the development;
  - b. Time schedule for construction;

- c. A letter from a financial institution or other funding agency indicating a commitment to provide a specified amount of funds and the uses for which the funds may be utilized;
  - d. A letter of “intent to fund” from the appropriate funding institution indicating the amount of funds and their specified uses;
  - e. Copies of bank statements or other evidence indicating availability of funds, when the developer will personally finance the development;
  - f. Performance bond.
31. Evidence of technical capacity to undertake the proposed subdivision, including documentation of the experience and training of the applicant’s consultants. (Not shown on 24 x 36 Plan.)
32. If any portion of the proposed subdivision is in the direct watershed of a Great Pond, and meets the stormwater management criteria of Article 10.12.D, the following shall be submitted or indicated on the plan:
- a. A phosphorus impact analysis and control plan conducted using the procedures set forth in the Department of Environmental Protection’s *Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual*, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Manual.
  - b. A long-term maintenance plan for all phosphorus control measures.
  - c. The contour lines shown on the plan shall be at an interval of no greater than five feet.
  - d. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
33. Street design plans meeting the requirements of Article 10.15 and the “*Road Design Standards of the Town of Bowdoin*.”
34. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices*, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). The Board may require the review and endorsement of this plan by a qualified professional. At a minimum, the following items shall be provided:
- a. Name, address, and telephone number of the person responsible for implementation of the erosion control plan.
  - b. Map showing the location of waterbodies in the vicinity that may be affected by erosion and sedimentation from the project.
  - c. Pre-construction and post-construction drainage patterns, including drainage channels that drain to surrounding waterbodies.

- d. A description of construction stages, in the order they will occur, including details of how soil disturbance will be minimized during the construction process.
  - e. Clear identification of areas to be disturbed and buffer areas that will remain undisturbed, and an indication of how buffer areas will be protected during construction.
  - f. Description of temporary and permanent erosion control measures that will be used.
  - g. Identification of the locations of all temporary and permanent erosion control measures.
  - h. Identification of how and where collected sediment will be disposed.
  - i. Dust control measures.
  - j. Inspection and maintenance procedures for erosion control measures, including schedule and frequency.
35. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level or local assumed datum. An on-ground topographical survey (with a maximum 2-foot contour interval) is required for areas within 50 feet of the centerline of the right of way of proposed internal subdivision roads in major subdivisions. The Planning Board will determine the extent of any additional on-ground topographical surveys that may be required based on the extent of any proposed grading which may create significant changes in elevation or slope. The Board may accept contours, at an appropriate interval, that have been produced by photogrammetric methods for such additional surveys.
36. Hydrogeologic assessment.  
A hydrogeologic assessment, including a nitrate study, prepared by a Licensed Professional Geologist or Licensed Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "*Hydrogeologic Data for Significant Sand and Gravel Aquifers*," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
  - b. The subdivision has an average density of more than one dwelling unit per 2.5 acres.

The Board may require a hydrogeologic assessment, including a nitrate study, in other cases where site considerations or development design indicate greater potential for adverse impacts on groundwater quality. These cases include extensive areas of shallow to bedrock soils; or developments in which the average density is less than one dwelling unit per 2.5 acres but the density of the developed portion is in excess of one dwelling unit per 2 acres; and proposed use of shared or common subsurface wastewater disposal systems. The

hydrogeologic assessment shall be conducted in accordance with the provisions of Article 10.9. (Not shown on 24 x 36 Plan.)

37. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be ten trips per day per residential lot or dwelling unit. (Not shown on 24 x 36 Plan.)
  38. Traffic Impact Analysis prepared by a Licensed Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. (Not shown on 24 x 36 Plan.)
- D. Submissions for Which a Waiver May be Requested. Pursuant to Article 12, Waivers, the applicant may submit written waiver requests as part of the Preliminary Plan application for the following items only. Submissions related to items for which waivers have been requested are not required as part of the Preliminary Plan.
1. Hydrogeological assessment. A hydrogeological assessment may be waived only when the subdivision is served by a public sewer, or, when the subdivision is not served by a public sewer, and:
    - a. No part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "*Hydrogeologic Data for Significant Sand and Gravel Aquifers*," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
    - b. The subdivision has an average density of less than one dwelling unit per 2.5 acres.
  2. Traffic impact analysis. The traffic impact analysis may be waived for projects expected to generate less than 140 trips per day.
- E. The Planning Board may require any additional information not listed above, when it finds additional information is necessary to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 and this Ordinance have been met.



## ARTICLE 7 - FINAL PLAN APPLICATION

### 7.1 *Procedure.*

- A. Within six months of the approval of the Preliminary Plan, the applicant shall submit an application for approval of the Final Plan. The applicant shall submit the application and all supporting materials, at least 10 days prior to a scheduled meeting of the Board to be considered at that meeting. The applicant shall deliver eleven (11) complete copies of the Final Plan application, plus all accompanying information, in the following manner: one copy to each Planning Board member by Registered Mail and the remaining copies to the Town office. If the application for the Final Plan is not submitted within six months of Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.

If an applicant cannot submit the Final Plan within six months, the applicant may request an extension. A request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. The request for an extension shall state the reason for the delay and set forth a timetable for Final Plan submission. In acting on the request for an extension, the Board shall make findings regarding whether the applicant has made due progress in preparing the Final Plan and pursuing approval of the plans before other agencies. The Board may grant a maximum of two 90-day extensions.

- B. All applications for Final Plan approval for a major subdivision shall be accompanied by a non-refundable application fee of \$500 payable by check to the Town of Bowdoin. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the Final Plan application and supporting materials, in accordance with the procedures of Article 6.1.B of this Ordinance.
- C. Prior to approval of the Final Plan application, the following approvals shall be obtained in writing, where applicable:
1. Maine Department of Environmental Protection, under the Site Location of Development Act.
  2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if a Maine Pollution Discharge Elimination System (MPDES) wastewater discharge license is needed.
  3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
  5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of its regulations to the proposal.

- D. The Board shall not review any Final Plan application unless the applicant or applicant's representative attends the meeting. If the applicant or applicant's representative fails to attend, the applicant shall contact the Board at least 10 days prior to a scheduled meeting to reschedule review of the application at a future, regularly scheduled meeting.
- E. At the meeting at which an application for Final Plan approval of a subdivision is initially presented, or within seven days of receipt of the Final Plan application, the Board or its designee shall issue a dated receipt to the applicant.
- F. Within thirty days of receipt of the Final Plan application, the Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant in writing of the specific additional materials needed to complete the application.
- G. Upon its determination that the application submitted for review is complete, the Board shall notify the applicant in writing.
- H. The Board shall hold a public hearing within thirty days of determining that it has received a complete Final Application. It shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to all property owners within 1000 feet of the boundaries of the proposed subdivision and to the applicant at least ten days prior to the hearing.
- I. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in Article 11.
- J. Within thirty days of the final public hearing, or at such other time as mutually agreed to by the Board and the applicant, the Board shall make a decision on the application. The Board may continue the public hearing to gather more evidence or may schedule an additional hearing as needed. In its decision, it shall make findings of fact and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A. §4404 and this Ordinance, and the standards of this Ordinance. If the Board finds that all of the statutory criteria and standards of this Ordinance have been met, it shall approve the Final Plan. If the Board finds that any of the statutory criteria or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions which ensure that all standards will be met by the subdivision. The reasons for any conditions shall be stated in the Board's records.

## **7.2 Submissions for Final Plan.**

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be 24 by 36 inches in size, and

shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. The submissions must include the following: two reproducible, stable-based transparencies of the recording plan, one to be recorded at the Registry of Deeds and one for the town records; and eleven (11) full sized paper copies of all the Final Plan sheets and any supporting documents.

In addition to all of the submissions required as part of the Preliminary Plan application, the Final Plan and accompanying information must include the following submissions:

- A. Completed Final Plan Application
- B. Proposed name of the subdivision, the name of the municipality in which it is located, and the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- E. An indication of the type of water supply system(s) to be used in the subdivision.
  - 1. When water is to be supplied by an existing public water utility, a written statement from the servicing water utility shall be submitted indicating it has reviewed and approved the water system design.
  - 2. A written statement shall be submitted from the Bowdoin Fire Chief commenting on the adequacy of all existing and proposed fire protection measures, including hydrant locations if applicable.
  - 3. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- F. The date the plan was prepared, north point, graphic map scale.
- G. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- H. The zone designation and location of any zoning boundaries affecting the subdivision.
- I. A copy of any deed restrictions proposed to cover all or part of the lots or dwellings in the subdivision.
- J. The location and size of existing and proposed sewers, water mains, culverts, utilities and drainage ways on or adjacent to the property to be subdivided.
- K. The location, names, and widths of existing and proposed streets and highways, in or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line within the

subdivision to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established, if available. The location, bearing, and length of street lines, lot lines and parcel boundary lines shall be determined by a Licensed Professional Land Surveyor. The original reproducible plans shall be embossed with the seal of a Licensed Professional Land Surveyor and signed by that individual.

- L. The location, size, and names of easements and public recreation areas, existing or proposed, in or adjacent to the subdivision.
- M. To facilitate the addition of the subdivision into the Town property records and geographic information system (GIS), the applicant shall submit subdivision plans in an electronic format compatible with the municipal system (if available). Survey grade GPS data (specifically pin locations, wetland boundaries, etc.) when available, shall also be submitted; these data should be clearly attributed so that a user may know to what the points/lines refer.
- N. Street design plans meeting the requirements of Article 10.15 and the “*Road Design Standards of the Town of Bowdoin*,” including the following:
  - 1. Detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets within the subdivision. The plan view scale shall be one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
    - a. Date, scale, and north point, indicating magnetic or true.
    - b. Intersections of the proposed street with existing streets.
    - c. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
    - d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
    - e. Complete curve data shall be indicated for all horizontal and vertical curves.
    - f. Turning radii at all intersections.
    - g. Centerline gradients.
    - h. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, including but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- O. List of all parcels of land proposed to be dedicated to public use and the conditions of such dedication. The following shall be submitted:
  - 1. Written offers to convey title of any streets and/or open spaces shown on the Plan which are proposed to be dedicated to the municipality. If proposed streets, open spaces, or other land is to be offered to the municipality, written evidence that the Board of Selectman is satisfied with the legal sufficiency of the written offer to convey title shall be submitted; and,
  - 2. Copies of agreements or other documents showing the manner in which common land to be retained by the developer or lot owners is to be managed and maintained. These may include lot owners’ association by-laws and condominium declarations. The Planning Board may require an affidavit from an attorney that the required documents are legally sufficient to preserve and maintain common land, recreation land, and other common facilities.

- P. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the base flood elevation, as determined using *FEMA Flood Boundary and Floodway Maps* and *Flood Insurance Rate Maps – Town of Bowdoin, Maine*, shall be delineated on the plan. The proposed subdivision plan must include, as a condition of plan approval, a requirement that principal structures in the subdivision be constructed with their lowest floor, including the basement, at least one foot above the base flood elevation. The requirements of Article 10.10, Floodplain Management must also be met.
- Q. The location and method of disposal of debris from land clearing, construction, and required improvements.
- R. A list of required improvements and construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has the financial commitments or resources to cover these costs.
- S. For subdivisions of 15 lots or more, a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town or quasi-municipal districts. These lists shall include but not be limited to:
  - 1. Schools
  - 2. Street maintenance and snow removal
  - 3. Police and fire protection
  - 4. Solid waste disposal and recycling
  - 5. Recreation facilities
  - 6. Storm water drainage

The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

- T. If the Preliminary Plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, the applicant shall submit a letter from the Maine Historic Preservation Commission approving the management plan for these areas and any measures proposed to mitigate impacts of the proposed subdivision.
- U. Demonstrated compliance with the Town of Bowdoin's "*E-911 Ordinance*," including written approval of any proposed street names from the Town of Bowdoin E-911 Addressing Officer.
- V. If waiver requests for Preliminary Plan submissions were denied by the Board, the required materials shall be included in the Final Plan application.
- W. All legal documents needed to establish the lot owners' association.

### **7.3 Final Approval and Filing.**

- A. No plan shall be approved by the Board as long as the applicant, or any entity in which the applicant has a legal or financial interest, is in violation of the provisions of a previously approved Plan within the Town of Bowdoin.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A. §4404, and this Ordinance have been met, and upon voting to approve the

subdivision, a simple majority of the Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reasons for its approval, any conditions of approval, or denial. One original Mylar copy of the signed plan shall be immediately retained by the Board as part of the Town's permanent records. Copies of the signed plan shall be forwarded to the tax assessor, the code enforcement officer, and one shall be retained for the town records. The applicant shall provide the Board with certification from the Registry of Deeds that the Final Plan was duly recorded. Any subdivision not recorded in the Sagadahoc County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Sagadahoc County Registry of Deeds to that effect.

- C. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised Final Plan is first submitted and the Board approves any modifications, in accordance with Article 8. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance, and the standards of this Ordinance. In the event that a Final Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall have a notice placed in the Sagadahoc County Registry of Deeds to that effect.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the Final Plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Final Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Failure to complete a portion of the improvements which represents at least 10% of the total cost of the required improvements within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
- F. Failure to complete substantial construction of the subdivision within ten years of the date of approval and signing of the plan shall trigger review of the project by the Planning Board in consultation with the Selectmen. The Planning Board may nullify the Plan, portions of the Plan, or utilize performance guarantees to complete the project.



## **ARTICLE 8 - REVISIONS TO APPROVED PLANS**

### **8.1      *Procedure.***

An applicant proposing a revision to a previously approved subdivision plan shall, at least 10 days prior to a scheduled meeting of the Planning Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Preliminary and Final Plan approval shall be followed, but per lot/dwelling unit fees are required only for the additional lots or dwelling units. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed and an application fee of \$150 shall be paid to the town.

### **8.2      *Submissions.***

The applicant shall submit a copy of the previously approved Plan as well as 11 copies of the proposed revisions following applicable guidelines for Preliminary or Final Plan submissions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance. The revised plan shall indicate that it is the revision of a previously approved and recorded Final Plan and shall show the title of the subdivision and the book and page on which the original plan is recorded at the Sagadahoc County Registry of Deeds.

### **8.3      *Scope of Review.***

The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed. When acting on proposed revisions, the Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance.

## ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

### 9.1 *Inspection of Required Improvements.*

- A. At least five days prior to commencing construction of required improvements, the applicant shall:
  1. Notify the code enforcement officer in writing of the time when construction of such improvements is proposed to commence, so that the Board of Selectmen can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of all improvements and utilities required by the Board.
  2. Deposit with the Board of Selectmen a check made out to the Town of Bowdoin for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the applicant as appropriate. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the inspecting official shall so report in writing to the Board of Selectmen, Board, and the applicant. The Board of Selectmen and Planning Board shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this article in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the applicant shall obtain permission from the Board to modify the plans in accordance with Article 8.
- D. At the close of each summer construction season, the Town shall, at the expense of the applicant, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the applicant shall provide the Board with a letter from a licensed professional land surveyor, stating that all required monumentation shown on the plan has been installed.
- F. Upon completion of street construction, a written certification stamped and signed by a Professional Engineer shall be submitted to the Planning Board at the expense of

the applicant, certifying that the proposed street meets or exceeds the design and construction requirements of this Ordinance and of the "*Road Design Standards of the Town of Bowdoin*," but taking into account any waivers that have been approved by the Planning Board.

- G. The applicant shall be required to maintain all improvements and provide for snow removal on streets until control is placed with a lot owners' association.

**9.2 *Violations and Enforcement.***

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Sagadahoc County Registry of Deeds until the Final Plan has been approved by the Board in accordance with this Ordinance.
- B. A person or entity shall not convey, offer, or agree to convey any land in a subdivision for which the Final Plan has not been approved by the Board and recorded in the Registry of Deeds.
- C. No public utility, water district, or utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- D. Development of a subdivision without Board approval shall be a violation of law and of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this Ordinance and recorded in the Sagadahoc County Registry of Deeds.
- E. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road by which the unit is accessed is completed in accordance with this Ordinance. The final paving is not required to be completed prior to the sale of lots if a performance guarantee is in place.
- F. Violations of this Ordinance including any codes or regulations adopted by reference shall constitute a civil violation subject to the penalties imposed by Title 30-A M.R.S.A., §4452. All civil penalties shall be payable to the Town of Bowdoin.

**ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS**

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1.2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory and other criteria for approval have been or will be met.

**10.1 Basic Subdivision Layout.****A. Lots.**

1. Side lot lines should be as near to perpendicular to the road as practicable.
2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of this Ordinance, and conditions placed on the original approval.
3. If a lot on one side of a stream or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or Great Pond as these features are defined in Title 38 M.R.S.A. §480-B, none of the lots created within the subdivision may have a lot depth to shore frontage ratio greater than 5 to 1.
5. The lot numbering and street names shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

**B. Monuments.**

1. Major subdivisions
  - a. Stone or concrete monuments or iron pins, at the discretion of the Planning Board, shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
  - b. Stone or concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
  - c. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. If bedrock is less than 2.5 feet below grade, the monuments shall be attached to the bedrock and may be less than three feet long. After they are set, drill-holes 1/2 inch deep with an iron plug shall locate the point or points described above.
  - d. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation in accordance with the standards of the Maine Board of Licensure for Professional Land Surveyors.

2. Minor Subdivisions may be set with iron pins at the corner points of every lot (a minimum of four (4) pins).

**10.2 Sufficient Water.**

**A. Water Supply.**

1. Reserved.
2. When a subdivision is to be served by a public water utility, the complete supply system within the subdivision including any fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water district and the fire chief. Fire hydrants connected to a public water utility shall be located no further than 500 feet from any building. Once the completed system has been installed and successfully tested by the servicing water district it will be deeded to the servicing water district at no cost, along with any easements necessary to permit maintenance or repair in the future.
3. When a proposed subdivision will not be served by a public water utility system, water supply shall be from individual wells or a private community water system.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
    - 1) Wells shall not be constructed within 75 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and imposed as a restriction on the deed of any affected lots.
  - b. Lots shall be designed so as to permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas, if required, in compliance with the *Maine Subsurface Wastewater Disposal Rules* (10-144 C.M.R. 241) and the *Well Drillers and Pump Installers Rules* (10-144 C.M.R. 232).
  - c. If a central water supply system is provided by the applicant, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the *Maine Rules Relating to Drinking Water* (10-144A C.M.R. 231).
  - d. For major subdivisions, the applicant shall provide adequate water storage facilities for fire protection.
    - 1) Facilities may be ponds with dry hydrants, underground storage reservoirs, or other methods acceptable to the fire chief.
    - 2) A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water utility, and sufficient additional 10,000-gallon storage facilities shall be provided to ensure that every building envelope is within 1,000 feet of a storage facility. The Board may require additional storage capacity upon a recommendation from the fire chief.
    - 3) Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality granting access to dry hydrants or reservoirs.
    - 4) Designs for hydrants and other provisions for drafting water shall be submitted to the Bowdoin Fire Department for review and approval.

Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.

- 5) The lot owners' association shall be responsible for the timely repair and replacement of water storage facilities.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water* (10-144A C.M.R. 231). If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a note on the plan to be recorded in the Sagadahoc County Registry of Deeds.

**10.3 Erosion and Sedimentation and Impact on Water Bodies**

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

**10.4 Sewage Disposal**

A. Private Systems.

1. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the *Maine Subsurface Wastewater Disposal Rules* (10-144 C.M.R. 241).
  - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to fit a disposal area on soils which meet the Disposal Rules.
  - b. In no instance shall a disposal area be on a site which requires a New System Variance from the *Maine Subsurface Wastewater Disposal Rules*.

**10.5 Solid Waste**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.



**10.6 Impacts on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, and Public Access to the Shoreline.**

**A. Protection of Natural and Cultural Features and Determination of Net Residential Area**

This article addresses the protection of natural features and determination of net residential area. Such protection may include the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited as a condition of approval.

**1. Natural Features**

Existing features which are important to the natural, scenic, and historic character of the Town or which add value to development, such as large trees, watercourses, scenic views, archaeological resources, stone walls, and similar valuable assets shall be mapped on all subdivision plans. Such features shall be preserved, as much as is practicable, in the design of developments. The Planning Board may require easements, deed restrictions, covenants, or other mechanisms for the protection of such features, which shall be described on the Final Plan.

**2. Net Residential Area**

The net residential area is the portion of a parcel subject to subdivision review that is used in the determination of allowable density. The Net Residential Area is calculated by subtracting from the parcel the full area of land that:

- a. Includes slopes of more than 25% and covers more than 5,000 contiguous square feet;
- b. Is located below the upland edge of any wetland (including wetlands mapped as significant wildlife habitat, such as vernal pools and waterfowl and wading bird habitat);
- c. Is located below the high water line of any protected resource, such as streams and water bodies, as is indicated by signs of seasonal or periodic inundation such as debris lines, water staining, changes in vegetation character, and changes to soil characteristics that indicate periodic flooding or scouring;
- d. Is located within any existing or proposed, public or private street or right-of-way;
- e. Contains habitat, whether or not mapped, for species appearing on the official State or Federal lists of endangered or threatened species where there has been evidence of the species' occurrence;
- f. Contains any of the following, whether or not mapped, as defined by the Department of Inland Fisheries and Wildlife *Significant Wildlife Habitat* rules (09-137 C.M.R. 10):
  - 1) High and moderate value deer wintering areas and travel corridors; or
  - 2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas;
- g. Contains significant vernal pools.

Some of the habitat areas listed above may be shown on Inland Fisheries and Wildlife Beginning with Habitat maps for the town of Bowdoin.<sup>1</sup>

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<sup>1</sup> Beginning with Habitat maps are periodically updated to depict changes in statewide resource data sets. Inland Fisheries and Wildlife's Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)) should be contacted for the most current version of the map.

B. Preservation of Natural Beauty and Aesthetics

1. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees for development to those areas designated on the plan. These limitations will not be construed to limit appropriate forest management or clearing for solar access.
2. The subdivision shall be designed to minimize the visibility of buildings from existing public roads. A subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways, utilities, and streets.
3. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. In all cases, tree plantings shall be native species and shall not be listed as an invasive species by the *Invasive Plant Atlas of New England*, 2003<sup>2</sup>. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted every fifty feet or less along the subdivision street. Plantings shall be maintained and replaced as needed by the lot owners' association.

C. Retention of Open Spaces and Historic Features.

1. If any portion of the subdivision is designated as a site of historic or prehistoric importance by the *Town of Bowdoin Comprehensive Plan*, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. The Board shall consider the advice of the Maine Historic Preservation Commission in reviewing such plans.
2. A portion of any new subdivision with more than four lots or units must be set aside within the development and permanently protected as open space to serve the residents of the subdivision. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space must include an area of usable land that is at least five percent (5%) of the Net Residential Area of the parcel. (For example, if the Net Residential Area of the parcel is twenty acres, then at least 5% or one acre of the open space must be usable land.) The required open space within the subdivision may be used for the following types of uses: formal open spaces such as greens, commons, and parks; passive recreation areas; natural resource or conservation areas.
3. Reserved land may be dedicated to the municipality subject to acceptance by the town.
4. A payment in lieu of open space reservation may be substituted if the applicant can demonstrate to the Planning Board's satisfaction that existing public recreation areas are adjacent and legally accessible. Payments in lieu of open space shall be \$250/lot and shall be deposited into a municipal fund. This fund, administered by the town, shall be used for acquisition of open space, outdoor recreation facility acquisition and development, or the improvement of existing municipal recreational facilities.

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<sup>2</sup> The Invasive Plant Atlas of New England can be viewed online at [www.ipane.org](http://www.ipane.org).

D. Protection of Natural Features, Significant Wildlife Habitat, and Important Habitat Areas.

1. If any portion of the subdivision is located within an area designated as a unique natural area by the *Town of Bowdoin Comprehensive Plan* or the Maine Natural Areas Program (MNAP), or is identified on the map of “*High Value Plant and Animal Habitats in the Town of Bowdoin*”<sup>3</sup>), the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation. The applicant must consult with the Beginning with Habitat program in developing these measures and provide BWH’s written comments to the Board. The Board may require a report to be submitted by a professional with demonstrated experience in unique natural areas. This report shall assess the potential impact of the subdivision on the natural areas and shall describe appropriate mitigation measures (including efforts to design the project in a manner that avoids unnecessary impacts and minimizes unavoidable impacts) to ensure that the subdivision will have no undue adverse impacts on unique natural areas.
2. If any portion of a proposed subdivision lies within 250 feet of areas identified and mapped by the Department of Inland Fisheries and Wildlife<sup>4</sup> or the *Town of Bowdoin Comprehensive Plan* as the following:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - c. Areas identified and mapped as high or moderate value deer wintering areas or travel corridors;
  - d. Other important habitat areas identified in the *Town of Bowdoin Comprehensive Plan* or by the Department of Inland Fisheries and Wildlife; the applicant shall demonstrate that there will be no undue adverse impacts on the habitat and species it supports. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist (approved by the Board) who has demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas except as provided for in an approved management plan.

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<sup>3</sup> This map is published by Inland Fisheries and Wildlife’s Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)). It is periodically updated to depict changes in statewide resource data sets. Inland Fisheries and Wildlife’s Beginning with Habitat program should be contacted for the most current version of the map.

<sup>4</sup> Many of these areas are depicted on the map of “*High Value Plant and Animal Habitats in the Town of Bowdoin*,” published by Inland Fisheries and Wildlife’s Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)).

3. If any portion of a proposed subdivision lies within 250 feet of a wetland, including significant vernal pools, the applicant shall demonstrate that there will be no adverse impacts on the wetland and its functions. The subdivision shall be designed and built in accordance with best management practices outlined in *Forestry Habitat Management Guidelines for Vernal Pool Wildlife* (Calhoun, A.J.K. and P. deMaynadier. 2004) and *Best Development Practices: Conserving Pool-Breeding Amphibians in Residential and Commercial Developments in the Northeastern U.S.* (Calhoun, A. and M. Klemens, 2002). There will be no filling or disturbance of wetlands except as allowed by Title 38 M.R.S.A. §480.
- E. Protection of Important Shoreland Areas.
1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or included in the open space with provisions made for continued public access.
  2. All shoreland areas shall comply with the standards of the “*Bowdoin Shoreland Zoning Ordinance*”.
- F. Reservation or Dedication and Maintenance of Common Land, Facilities and Services.
1. All common land, facilities, and property shall be owned by:
    - a. The owners of the lots or dwelling units by means of a lot owners' association;
    - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
    - c. The municipality.
  2. Further subdivision of the common land and its use for purposes other than non-commercial recreation, agriculture, or conservation, except for easements for utilities, is prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
  3. The common land shall be shown on the Final Plan with appropriate notations on the plan to indicate:
    - a. It shall not be used for future building lots; and
    - b. Which portions of the common land, if any, may be proposed for dedication and acceptance by the municipality.
  4. The Final Plan application shall include the information required in Article 10.16 regarding establishment of a lot owners' association to maintain common land.

**10.7 Conformance with Land Use and Other Ordinances.**

The proposed subdivision shall meet all applicable performance standards or design criteria from the “*Bowdoin Land Use Ordinance*” and other relevant ordinances.

**10.8 Financial and Technical Capacity.**

**A. Financial Capacity.**

The applicant shall demonstrate, with ample evidence, adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this Ordinance. In making the above determinations, the Board shall consider the proposed time frame for construction and the effects of inflation.

**B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**10.9 Impact on Ground Water Quality or Quantity.**

**A. Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality and quantity (flow rates), from at least one test well in the subdivision or from existing wells on neighboring properties. This data must have been collected within the most recent five-year period.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. A map showing the location of all subsurface waste water disposal systems and drinking water well exclusion areas within the subdivision and existing facilities within 200 feet of the subdivision boundaries.
2. Projections of ground water quality in any assessment shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the **Primary Drinking Water Standards** (40 CFR Part 141). No subdivision shall increase any contaminant concentration in the ground water to more than the **Secondary Drinking Water Standards** (40 CFR Part 143).
4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water well exclusion areas shall be as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

**B. Ground Water Quantity.**

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.



2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff which creates a corresponding decrease in infiltration of precipitation.

**10.10 Floodplain Management.**

The following applies to any part of a subdivision that is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the flood hazard area shall be constructed in accordance with the "*Floodplain Management Ordinance for the Town of Bowdoin, Maine*" with their lowest floor, including the basement, at least one foot above the base flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce compliance with the construction requirements and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.**

Freshwater wetlands within the proposed subdivision shall be identified by a wetland scientist who has experience and training in soils and wetland vegetation in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. All rivers, streams, brooks, and significant vernal pools within or abutting the proposed subdivision shall be identified. The wetland scientist's qualifications shall be submitted for review and approval by the Planning Board. Wetland scientists licensed by the State of New Hampshire shall be considered qualified.

**10.12 Stormwater Management and Phosphorus Control in Lake Watersheds**

- A. A stormwater management plan, prepared by a professional engineer, shall be designed so that the post-development stormwater runoff does not exceed the pre-development stormwater runoff for the 24-hour duration, 2-, 10-, and 25-year frequency storm events. The stormwater plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices* (2006) by the Maine Department of Environmental Protection. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The plan must include adequate measures for the permanent protection and maintenance of vegetative buffers and all stormwater control devices. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data.
- B. The Board may require review and endorsement of the stormwater plan and calculations by the Androscoggin Valley Soil and Water Conservation District or other appropriate entity.



- C. If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the stormwater plan submitted to DEP.
- D. A stormwater management plan must be submitted for subdivisions within the direct watershed of a Great Pond, containing:
  - 1. Five or more lots or dwelling units created within any five-year period; or
  - 2. Any combination of 800 linear feet of new or upgraded driveways and/or streets.This plan shall meet the phosphorus allocation across the entire subdivision in accordance with the methodology described in the *DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual* (2006).

**10.13 Reserved**

**10.14 Compliance with Timber Harvesting Rules.**

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12 M.R.S.A. §8869, sub-§14. If a violation of these rules has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A. §8868, sub-§ 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

**10.15 Subdivision Access and Street Design.**

The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the "*Road Design Standards of the Town of Bowdoin*" and the access and design standards contained in this Ordinance, whichever is more stringent. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.

**A. General Standards**

All street design plans shall be prepared by a professional engineer. The proposed subdivision shall meet the following general transportation performance standards:

- 1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists, and pedestrians on interior subdivision streets and on access connections to external streets and private ways;
- 2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
- 3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists, and pedestrians on interior subdivision streets and access connections to external streets;
- 4. The subdivision transportation system shall have design standards that are

compatible with the estimated Average Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and

5. The subdivision road system shall be appropriate for the topography and natural setting of the proposed subdivision site.

B. External Access Standards

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules* (17-229 C.M.R. 299);
2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits* (17-229 C.M.R. 305).
3. Accesses to all subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be prepared when requested by the Planning Board.

C. Access Control.

1. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. The Planning Board may impose this same restriction on a subdivision on any other public street to promote traffic safety and maintain the rural character of the area. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally, a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
4. The subdivision access, including all radii, must be paved from the edge of external street's pavement to the street right of way or the length of the design vehicle, whichever is greater.
5. Minimum Sight Distance Standards: Streets and other accesses shall be located and designed in profile and grading to provide adequate sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a stationary vehicle with the front of the vehicle a minimum of ten (10) feet behind the pavement or edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.25 feet above the road surface at the center of the traveled way. A minimum sight distance of ten (10) feet for each mile per hour of the posted speed limit shall be provided. The Planning Board may require a more or less stringent standard for sight distances depending on the condition of the road, the volume of traffic, or other circumstances unique to the property. A more or less stringent standard may be allowed or required only if recommended by a traffic engineer.

6. Access and circulation shall conform to the following standards:
  - a. Level of Service (LOS): The street providing access to the subdivision, neighboring streets, and the first intersection(s) which can be expected to carry traffic generated by the subdivision shall either have adequate capacity or shall be suitably improved to accommodate additional traffic so as to avoid unreasonable congestion. Intersections on major access routes to the site which are functioning at a Level of Service C or better prior to the development will function at a minimum of Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service. The Planning Board may approve a subdivision not meeting this requirement if the applicant demonstrates that:
    - 1) A public agency has committed funds to construct improvements necessary to bring or maintain the level of service at this standard, or
    - 2) The applicant will assume the financial responsibility for the improvements necessary to maintain or bring the level of service to the applicable standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town.

#### D. Internal Subdivision Street Design Standards

All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the *“Road Design Standards of the Town of Bowdoin,”* the more stringent rule shall apply.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the Planning Board to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with turn-around or cul-de-sacs unless specifically exempted by the Planning Board and Fire Chief, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. When appropriate, proposed streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
2. No more than 15 residential lots or dwellings shall be constructed or created on a dead-end street unless there is an emergency second access street to a public through street. Emergency second access roads shall be on rights-of-way that are at least 50 feet wide. Existing 3-rod rights-of-ways shall be acceptable for emergency second road access. The Planning Board may allow a narrower traveled way to mitigate environmental impacts, such as impacts on wetlands, but may not reduce the required traveled way width to less than 12 feet. The emergency second access road must be adequate to allow for snow plowing and emergency access by fire trucks. Gravel may be used as the road surface. The emergency second access street shall be suitable for year-round use, and shall meet or exceed the applicable construction standards (materials and depths) in the *“Road Design Standards of the Town of Bowdoin.”* Emergency second access streets shall be plowed and maintained year-round by a lot owners’ association or the developer.

3. A dead-end road with only one point of access to a public through street shall not exceed 1,500 feet in linear length including the hammerhead portion of the road. Loop portions of dead-end roads shall not be included for purposes of computing the linear length of the dead-end road when they do not contain residences and serve the sole purpose of reversing traffic direction.
  4. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways, transportation demand management techniques, and traffic controls within existing public streets.
  5. Sidewalks: The Planning Board may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be beneficial. The Board shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.
  6. Street Names, Signs and Lighting: Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the E-911 Officer. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.
  7. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- E. Street Design and Construction Requirements for Final Plan
1. Upon receipt of plans for a proposed public street the Board shall forward one copy each to the Board of Selectmen, the road commissioner, and the municipal engineer for review and comment. Plans for streets that are not proposed to be accepted by the town shall only be sent to the municipal engineer for review and comment.
  2. Where the applicant proposes improvements of existing public streets, the proposed design and construction details shall be approved in writing by the municipal engineer or the Maine Department of Transportation, as appropriate.
  3. The following words shall appear on the recorded plan: *"Roads shown on this plan shall be maintained by a lot owners' association or the developer. The Town of Bowdoin has no legal authority or legal responsibility to maintain private roads."*

#### **10.16 Lot Owners' Association**

- A. The applicant must incorporate a lot owners' association consisting of all individual lot owners if the subdivision includes private roads, land, or facilities to be held in common. Each lot owner shall own an equal fractional interest in the road, facilities, and common land and shall be responsible for an equal amount for maintenance and other costs. A maintenance agreement shall be provided to ensure the continued maintenance of private roads and other commonly owned facilities in good condition. The Final Plan application shall include:

1. Proposed deed covenants, which shall be placed in each deed from the developer to the individual lot owner. These covenants shall require mandatory membership in the lot owners' association and shall set forth the owner's rights, interest, privileges, and obligations in the association, the road, and common properties and facilities.
  2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit association;
  3. Draft bylaws of the proposed lot owners' association, specifying the responsibility and authority of the association, the operating procedures of the association, and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of roads, common property and facilities.
- B. In combination, the documents referenced in Article 10.16.A shall provide for the following:
1. The lot owners' association shall have the responsibility of maintaining the roads, common property, and facilities.
  2. The lot owners' association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of roads, common property, and facilities and tax assessments.
  3. The applicant shall maintain control of the roads, common property, and facilities, and be responsible for its maintenance until 75% of the residential lots in the subdivision have been sold, at which time the lot owners' association shall be responsible for such maintenance. This obligation shall be described in the deed covenant or by some other legal instrument made binding on the lot owner and running with the land.
- C. All proposed deed covenants and other legal documents pertaining to the lot owners' association may be reviewed by the Town Attorney and, if approved by the Planning Board, shall be recorded in the Sagadahoc County Registry of Deeds, and included in the deed to each lot.
- D. All legal documents required under this subsection must be submitted with the Final Plan application.

## ARTICLE 11 - PERFORMANCE GUARANTEES

### 11.1 *Types of Guarantees.*

With submission of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town of Bowdoin or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account; or
- B. A performance bond payable to the Town of Bowdoin issued by a surety company, approved by the Board of Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town of Bowdoin may draw if construction is inadequate or not completed, approved by the Board of Selectmen.

The conditions and the amount of the performance guarantee shall be determined by the Board with the advice of a consulting engineer, the Board of Selectmen, and/or the Town attorney.

### 11.2 *Contents of Guarantee.*

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer following approval by the Board, and a date after which the applicant will be in default and the Town shall have access to the funds to finish construction.

### 11.3 *Escrow Account.*

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Bowdoin, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town of Bowdoin shall be named as owner or co-owner, and the consent of the Board of Selectmen shall be required for a withdrawal. Any funds remaining in the escrow account at the completion of the project shall be returned to the applicant within 45 days. For purposes of this article, completion of the project shall mean the project has been inspected and the Board has determined that it is complete.

### 11.4 *Performance Bond.*

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### 11.5 *Letter of Credit.*

An irrevocable letter of credit from a bank or other lending institution with offices in the region shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.



**11.6 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of a consulting engineer or other qualified individual retained by the Town and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

**11.7 Default.**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the Board of Selectmen, the Planning Board, and the applicant. The Planning Board and Board of Selectmen shall take any steps necessary to preserve the Town's rights.

**11.8 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of this Ordinance and for the construction of streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

## ARTICLE 12 - WAIVERS

### ***12.1 Waivers of Certain Submission Requirements Authorized.***

Except as prohibited by this Ordinance or Maine statutes, the Board may waive portions of the submission requirements under the following circumstances:

- A. The applicant has demonstrated that the performance standards of this Ordinance and the criteria of the subdivision statute have been or will be met;
- B. The applicant has demonstrated that the public health, safety, and welfare are protected;
- C. The applicant has demonstrated that the waivers do not have the effect of nullifying the intent and purpose of the *Town of Bowdoin Comprehensive Plan*, this Ordinance, and other ordinances adopted by the town; and
- D. The Board finds that there are special circumstances regarding the particular parcel proposed to be subdivided, or that the application is simple and minor in nature.

The Board shall make written findings of fact establishing that the above criteria were met.

### ***12.2 Waivers of Certain Improvements Authorized.***

Except as prohibited by this Ordinance or Maine statutes, the Board may waive the requirement for certain improvements subject to appropriate conditions under the following circumstances:

- A. The applicant has demonstrated that the performance standards of this Ordinance and the criteria of the subdivision statute have been or will be met;
- B. The applicant has demonstrated that certain required improvements are not requisite to provide for the public health, safety, and welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent or in proximity to the proposed subdivision;
- C. The applicant has demonstrated that the waivers do not have the effect of nullifying the intent and purpose of the *Town of Bowdoin Comprehensive Plan*, this Ordinance, and other ordinances adopted by the town; and
- D. The Board finds that there are special circumstances regarding the particular parcel proposed to be subdivided.

The Board shall make written findings of fact establishing that the above criteria were met.

### ***12.3 Waiver of Procedural Steps***

The Board may allow an applicant to combine the Preliminary Plan and Final Plan application steps into one procedure under the following circumstances:

- A. No new streets are proposed;
- B. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;" and

- C. The application contains all other applicable submissions required for both the preliminary and Final Plan steps, except for those items for which a waiver of a required submission or improvement has been requested and granted.

The Board shall make written findings of fact establishing that the above criteria were met.

**12.4     *Conditions for Waivers.***

When granting waivers, the Board may set conditions to ensure that the purposes of this Ordinance are met.

**12.5     *Timing of Waiver Requests***

Waivers must be requested in the Preliminary Plan application. Waivers may not be requested following the public hearing on the Preliminary Plan unless an additional public hearing is held to accept comment on the requests prior to approval of the Preliminary Plan.

**12.6     *Final Determination and Granting of Waivers***

The Planning Board will take testimony at the public hearing on the Preliminary Plan on whether waivers requested by the applicant should be granted or denied. The Planning Board will make its final determination on the granting of waivers in writing prior to approval of the Preliminary Plan. If waivers of submission requirements are denied, those submission requirements must be included in the Final Plan application.

**12.7     *Waivers Shall Be Shown on Final Plan.***

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

**ARTICLE 13 - APPEALS**

***13.1 Appeals.***

Notwithstanding any ordinance to the contrary, an aggrieved party may appeal any decision under this Ordinance to the Sagadahoc County Superior Court within 45 days of the date on which the Planning Board issues a written decision. This article is intended to create an exception to the provisions of Section II(E)(ii) of the “*Land Use Ordinance*,” but only with respect to appeals from actions of the Planning Board regarding subdivision issues.