

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

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 this 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.

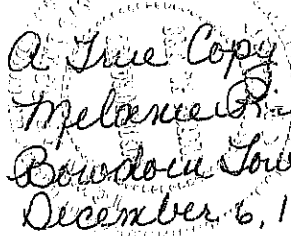
The Secretary of the Board shall prepare for recording the information and papers necessary to be recorded in the Registry of Deeds relevant to any appeal which has been granted. It shall be the responsibility of the appellant to record the documents, however.

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
Bowdoin Town Clerk
December 6, 1999

