

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 areas; 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 \$50.00 for processing the application. Within 30 days of the filing of an 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 areawide circulation. The abutting land-owners shall be notified of the hearing. *3/10/90 ART. 23 Town Meeting*
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 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 judgment 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 by 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 provision 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 R. Page
Bowdoin Town Clerk
December 1, 1999*