

An Ordinance to Amend the Town of Bowdoinham Land Use Ordinance to Format and Renumber within the Approval Criteria and General Performance Standards of Site Plan Review.

NOTE: Proposed additions to existing Code sections are underlined.
Proposed deletions of existing Code sections are ~~crossed-out~~.
Other sections of the Ordinance are unchanged.

The Town of Bowdoinham hereby ordains and enacts “An Ordinance to Amend the Town of Bowdoinham Land Use Ordinance to Format and Renumber within the Approval Criteria and General Performance Standards of Site Plan Review” to read as follows:

Part 1: Article 10, Section C, Approval Criteria, Subsection 16-30

C) Approval Criteria

The following criteria shall be used in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless it is determined that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant to produce evidence sufficient to warrant a finding that all applicable criteria have been met.

- ~~16)~~ ~~Special Resources~~—
- a) ~~16)~~ Shoreland – The proposed development will be in compliance with the Town’s Shoreland Zoning Ordinance.
- b) ~~17)~~ Floodplain – The proposed development will be in compliance with the Town’s Floodplain Management Ordinance.
- e) ~~18)~~ Wetlands & Waterbodies – The proposed development will not have an adverse impact on wetlands and/or waterbodies, to the extent that is practicable.
- d) ~~19)~~ Historic & Archaeological – The proposed development will not have an adverse effect on historic and/or archaeological sites.
- e) ~~20)~~ Groundwater – The proposed development will not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems.
- f) ~~21)~~ Wildlife Habitat – The proposed development will not have an undue adverse effect on wildlife habitat.
- g) ~~22)~~ Natural Areas – The proposed development will not have an undue adverse effect on rare and irreplaceable natural areas.
- ~~17)~~ ~~23)~~ Environmental Impact – The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining existing vegetation.
- a) ~~24)~~ Solid Waste Management – The proposed development will provide for adequate disposal of solid wastes.
- b) ~~25)~~ Hazardous, Special & Radioactive Materials – The proposed development will handle, store, and use all materials identified as hazardous, special or radioactive in accordance with the standards of Federal and State agencies.
- e) ~~26)~~ Air Quality – The proposed development will not result in undue air pollution or odors.

- d)27) Water Quality – The proposed development will not result in water pollution.
- e)28) Stormwater – The proposed development will provide for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other impervious surfaces, which must not have an adverse impact on abutting or downstream properties.
- f)29) Sedimentation & Erosion Control – The proposed development will take adequate measures to prevent soil erosion and the sedimentation of watercourses and waterbodies.
- 18)30) Noise – The proposed development will control noise levels so that it will not create a nuisance for neighboring properties.
- 19)31) Compliance with Ordinances – The proposed development conforms with the provisions of this Land Use Ordinance and other ordinances and regulations of the Town of Bowdoinham.
- 20)32) Town Plans & Vision Statements – The proposed development is consistent with the intent of the Town’s Plans, including but not limited to the Comprehensive Plan, Waterfront Plan, and Transportation Vision Statement.

Part 2: Article 10, Section D, General Performance Standards, Subsection 16-20

D) General Performance Standards

The performance standards in this article are intended to clarify and expand upon the approval criteria. Compliance with the performance standards of this section shall be considered to be evidence of meeting the appropriate approval criteria. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate the statutory criteria for approval and performance standards have been or will be met.

The Planning Board may waive any of the general performance standards based upon a written request of the applicant. Such request should be made at the time of the Site Inventory & Analysis review or at the initial review of the application if no Site Inventory & Analysis review. A waiver of any general performance standard may be granted only if the Board finds that the standard is not required for the proposed project to be in compliance with the approval criteria.

- 16) Special Resources –
- a)16) Shoreland – The proposed development will be in compliance with the Shoreland Zoning provisions of Article 5 and 7 of this ordinance if located within the Shoreland Zone.
- b)17) Floodplain – If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Floodplain Management provisions of Article 8 of this ordinance.
- e)18) Wetlands & Waterbodies – The proposed development will not have an adverse impact on wetlands and/or waterbodies, to the extent that is practicable.
 - (i)a) The development must not adversely affect the water quality or shoreline of any adjacent water body, to the extent practicable. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.
 - (ii)b) When a proposed development is immediately visible from a river, or stream, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development, and vegetation must be retained or provided to

minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

~~(iii)c)~~ Activities within 250 feet of vernal pools shall meet requirements set by Maine Department of Environmental Protection's Natural Resources Protection Act.

~~17)19)~~ Historic & Archaeological –

- a) If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
- b) Proposed developments which include or are adjacent to buildings or sites on the National Register of Historic Places, Maine Historic Preservation Commission or when the Comprehensive Plan has identified as being of historical significance, shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures shall be similar to the historic structures. The Board may require the applicant to seek the advice of the Maine Historic Preservation Commission.

~~18)20)~~ Groundwater –

Projects that involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

~~19)21)~~ Wildlife Habitat –

- a) If any portion of a property lies within areas identified and mapped by the Department of Inland Fisheries and Wildlife, the applicant shall demonstrate that there shall be minimal impacts on the habitat and species it supports. The plan shall provide for protection of the identified resource in a manner acceptable to the Maine Department of Inland Fisheries and Wildlife or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the wildlife resource being impacted and approved by the Board. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the development on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the development will have minimal impacts on the habitat and the species it supports. These areas include:
 - (i) Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - (ii) High and moderate value waterfowl habitats, including nesting and feeding areas; or
 - (iii) A high or moderate value deer wintering area.

~~20)22)~~ Natural Areas –

- a) If any portion of the property is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site

for such designation, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. The Board may require the applicant to seek the advice of the Maine Natural Areas Program.

- b) The Planning Board may require a survey from a qualified professional of the area in question if it has not been previously surveyed.

~~21~~23) Environmental Impact –

- a) The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining existing vegetation.
- b) Extensive grading and filling must be avoided as far as possible.
- c) The proposed development will not cause a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

~~22~~24) Solid Waste Management – The proposed development will provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

~~23~~25) Hazardous, Special & Radioactive Materials –

- a) Hazardous, Special and Radioactive Materials - The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.
- b) No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. For the purposes of this section, bulk storage shall be considered one thousand (1,000) gallons or greater. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.
- c) A Spill Prevention, Control, and Countermeasure Plan (SPCC) or Hazardous Waste Prevention Plan may be required to:
 - (i) Ensure materials are handled according to State & Federal rules and best management practices;
 - (ii) Minimize spills and contamination; and
 - (iii) To ensure prompt clean-up.
- d) The Planning Board may require Pollution Insurance to ensure the proposed development has the resources necessary to clean-up any possible pollution due to hazardous, special and/or radioactive materials.

~~24~~26) Air Quality –

- a) The proposed development will meet the Maine Department of Environmental Protection and U.S. Environmental Protection Agency standards.
- b) The proposed development will not negatively impact abutters or the public with undue odors.

~~25~~27) Water Quality –

- a) No proposed development shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash

into surface or groundwater so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

- b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
 - (i) A Spill Prevention, Control, and Countermeasure Plan (SPCC) may be required to ensure every effort is made to prevent spills and clean them up promptly once they occur.
- c) If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

26)28) Stormwater – Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

- a) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- b) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- c) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- d) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- e) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- f) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- g) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

27)29) Sedimentation & Erosion Control –

- a) All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots

on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

- b) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 2003.

~~28)30)~~ Noise –

- a) Noise levels on a site abutting any residential use shall be kept to a minimum between the hours of 9 p.m. and 6 a.m.
- b) The Planning Board may specify an activity or business's hours of operation to address the level of noise, if necessary.

Part 3: Effective Date.


This Ordinance shall take effect upon adoption by the Town Meeting.

Given under our hands this 10th day of May, 2022.


BOARD OF SELECTMEN OF THE TOWN OF BOWDOINHAM:




David Engler, Chair




Mark Favreau, Vice Chair



Jeremy Cluchey



Peter Lewis



Debra Smith