

ARTICLE 5

Shall an ordinance entitled, “An Ordinance to Amend the Town of Bowdoinham Land Use Ordinance to Add, Revise and Clarify Provisions” be enacted?

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.

ARTICLE 2: DEFINITIONS

Subdivision, Major: Any subdivision containing five ~~six~~ or more lots or dwelling units including an amendment to an approved subdivision that will result in the creation of a total of more than five (5) ~~six (6)~~ lots in the entire subdivision.

Subdivision, Minor: Any subdivision containing four ~~five~~ or fewer lots or dwelling units.

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

1. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or

b. The division of the tract or parcel is otherwise exempt under this Ordinance.

2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

3. A lot of 40 or more acres shall be counted as a lot, per Title 30-A M.R.S.A. §4401 (4)(C).

4. The following division do not result in lots that must be counted:

g. If a new lot is created to meet open space requirements it does not count toward the number of lots in a subdivision unless the intent of the transferor is to avoid the objectives of this Ordinance.

ARTICLE 4. PERFORMANCE STANDARDS

D) Erosion and Sedimentation Control

Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the current at time of application Maine Erosion and Sediment Control Best Management Practices Manuals. ~~Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 2003.~~

ARTICLE 9: SUBDIVISION

A) Purpose.

The purposes of this section are:

- 1) To provide for the expeditious, equitable, and efficient review of proposed subdivisions;
- 2) To establish standards for the application of the approval criteria of the State Subdivision Law, found in Title 30-A M.R.S.A. §4401 et seq.;
- 3) To ensure that development in the Town of Bowdoinham meets the goals and conforms to the policies of the adopted Comprehensive Plan;
- 4) To ensure the comfort, convenience, safety, health, and welfare of the people of the Town of Bowdoinham;
- 5) To protect the environment and conserve the natural and cultural resources identified in the adopted Comprehensive Plan as important to the community;
- 6) To ensure that an adequate level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions can support the proposed uses and structures;
- 7) To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 8) To promote the development of an economically sound and stable community.

B) Administrative Procedures

1) Review & Approval Authority.

The Planning Board is authorized to review and act on all applications for subdivisions. In considering subdivisions under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

2) Classification of Projects.

a) The Town Planner shall classify each proposed project as:

- (i) Minor Subdivision. Any subdivision containing four ~~five~~ or fewer lots or dwelling units.
- (ii) Major Subdivision. Any subdivision containing five ~~six~~ or more lots or dwelling units.
- (i) Subdivision Amendment. An application to revise an existing subdivision.

3) Subdivision Amendment.

a) If the revision involves the creation of additional lots or dwelling units; and the applicants the developer or the subdivision is less than five years old:

(i) the procedures for preliminary plan approval shall be followed

(ii) the scope of review shall be the entire subdivision.

b) If the revision involves the creation of additional lots or dwelling units and the applicants the purchaser of one of the lots within the subdivision:

(i) then the procedures for preliminary plan approval shall be followed and

(ii) the scope of review shall be the lots or dwelling units that the application is for and subdivision's infrastructure (i.e. road, utilities, fire protection).

(iii) the lot sizes, density, open space, and any restrictions included in the original subdivision still apply.

c) If the revision involves a modification of the approved plan (such as relocation of rights of-way, changes of grade by more than 1%, etc.), without the creation of additional lots or dwelling units:

F) Approval Criteria

9) Special Resources –

a) Shoreland – The proposed subdivision will not adversely affect the quality of the water body or unreasonably affect the shoreline of the water body and is in compliance with the Shoreland Zoning provisions of this Ordinance.

b) Floodplain – The proposed subdivision is in compliance with the Floodplain Management provisions of this Ordinance.

c) Wetlands & Waterbodies – The proposed subdivision will not have an undue adverse impact on wetlands and/or waterbodies, to the extent that is practicable.

d) Historic & Archaeological – The proposed subdivision will not have an undue adverse effect on historic and/or archaeological sites.

e) Groundwater – The proposed subdivision will not adversely affect the quality or quantity of groundwater.

f) Wildlife Habitat – The proposed subdivision will not have an undue adverse effect on wildlife habitat.

g) Natural Areas – The proposed subdivision will not have an undue adverse effect on rare and irreplaceable natural areas.

h) Open Space – The proposed subdivision includes reserved Open Space that adequately meets the requirements of the district.

Pages 12-41, Definitions:

(Remove extra space between the “Basement” and “Bed and breakfast” sections, the “Construction Business” and “Construction Operations” sections, and any other sections that have extra spaces – please check the rest of the Ordinance as well. Correctly indent subsections of the “Automobile graveyard,” “Extractive industries,” “Junkyard,” “Recreational Vehicle,” “Stream,” and “Undue hardship” sections.)

Page 13, Back Lot:

Back lot: A lot that does not have frontage on a private or ~~publie~~public road, except to meet the Performance Standard in Article 4.BC

Page 16:

(Edit line spacing for the “Communication tower” section.)

Page 56, Footnote 2:

(Move Article 5.D.1.c from page 57 to 56.)

Page 56, Footnote 2:

²The Minimum Road Frontage requirement may be waived by the Code Enforcement Officer if the property meets the Back Lot Performance Standard in Article 4, Section BC.

Page 60 (Now 59), Table 5.1:

(Remove underline from the “Accessory Dwelling Unit” row.)

Page 184 (Now 183), Section 10.B.5.a.iv.B,F:

(B) the boundaries of the parcel, as shown on the Town’s Tax Maps;

(F) proposed development including locations of buildings, impervious areas, storage areas, signage and lighting;

Page 186 (Now 1), Section 10.B.5.c.v.C.1,2:

1. forty (40) feet to the inch is preferred, but in no case shall the scale exceed one hundred (100) feet to the inch for that portion of the tract of land being proposed for development.
 - a. *(Move sections 10.B.5.c.v.C.2.a,b,c,e,f,h. here for clarity.)*
2. General Information.
 - a. record owner's name, address, and phone number and applicant's name, address and phone number, if different.
 - b. the location of all required building setbacks, yards, and buffers.
 - c. names and addresses of all property owners within two hundred (200) feet of any and all property boundaries.
 - d. sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
 - e. boundaries of all contiguous property under the total or partial control of the owner o applicant regardless of whether all or part is being developed at this time.

- f. the tax map and lot number of the parcel or parcels on which the project is to be located.
- g. a copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- h. the name, registration number and seal of the person who prepared the plan, if applicable.
- i. cost of the proposed development.
- j. evidence of the applicant's financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed or available, and individual's or institution's interest in financing the project or in the form of a letter from a certified accountant or annual report indicating that the applicant has adequate cash flow to cover anticipated costs.
- k. evidence of the applicant's technical capability to carry out the project as proposed.

Page 189, Section 10.B.5.c.v.C.5:

d) Site Plan Amendment. The applicant shall submit ten (10) copies of the following:

~~(A)(i)~~ the approved plan

~~(B)(ii)~~ the proposed revised plan,

~~(C)(iii)~~ supporting information to allow the Board to make a determination that the proposed revisions meet the applicable performance standards and approval criteria.

Page 234, Section 12.I.1,3:

1) The Board may reconsider any decision reached under this Section within 45 days of its prior decision of its own accord, or upon the request of an aggrieved party. A request to the Board to reconsider must be ~~files~~filed within 10 days of the decision to be reconsidered. A reconsideration vote and the action taken on that reconsideration must be completed within 45 days of the date of the vote on the original decision.

3) If the Board shall ~~denies~~deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of denial by the Board of the first appeal, unless it is the opinion of a majority of the Board that an error, mistake or misunderstanding of facts has occurred.

Page 234, Town Clerk Signature:

“Attest: A true copy of an ordinance entitled Land Use Ordinance, as certified to me by the municipal officer of the Town of Bowdoinham, Maine, adopted by Town Meeting on the 10th day of June 2009 and amended by town meeting on the 9th day of June 2010, on the 15th day of June 2011, on the 13th day of June 2012, on the 12th day of June 2013, on the 11th day of June 2014, on the 10th day of June 2015, on the 15th day of June 2016, on the 14th day of June 2017, on the 13th day of June 2018, on the 12th day of June 2019, on the 14th day of July 2020, on the 9th day of June 2021, ~~and~~ on the 15th day of June 2022, and on the 14th day of June 2023.”

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

Given under our hands this 23rd day of April 2024.

BOARD OF SELECTMEN OF THE TOWN OF BOWDOINHAM:

Joanne Joy, Chair

Debra Smith, Vice Chair

Mark Favreau

Peter Feeney

Allen Acker