

# TOWN OF BOWDOINHAM



## LAND USE ORDINANCE

PROPOSED AMENDMENTS – PUBLIC HEARING  
APRIL 15, 2021

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**ARTICLE 3: NONCONFORMANCE**

**A) Purpose.**

**B) General**

**C) Non-conforming Buildings**

- 1) Expansions. A non-conforming building 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 create an increase the nonconformity of a structure and is in accordance with subparagraphs (a) and (b) below.
  - a) A non-conforming building shall not be added to or enlarged unless such addition or enlargement does not increase the linear extent of the nonconformance of the building or a variance is obtained from the Board of Appeals.
  - b) Whenever a new, enlarged or replacement foundation is constructed under a non-conforming building, the building and new foundation must be placed such that the setback requirements are met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section C. 2- Relocation, below. The construction or enlargement of a foundation under an existing dwelling shall not be considered an expansion provided that:
    - (i) The completed foundation does not extend beyond the exterior dimensions of the structure.
    - (ii) The completed foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the original ground level to the bottom of the first floor sill.
    - (iii) The addition of an open patio with no structure elevated more than three inches above ground level shall not constitute the expansion of a non-conforming structure. The addition of steps or the enclosure of an existing porch shall not constitute the expansion of a non-conforming structure. But the addition of a deck does constitute the expansion of a non-conforming structure and the deck shall meet all the dimensional requirements of this Ordinance.
- 2) Relocation. A non-conforming building may be relocated within the boundaries of the parcel on which the building 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 building be relocated in a manner that causes the building to be more non-conforming.
  - a) 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

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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.

- 3) Reconstruction or Replacement. Any nonconforming building, or a building containing a nonconforming use, which is hereafter damaged or destroyed by fire, flood, lightning, wind, structural failure or other accidental cause, may be restored or reconstructed in conformity with its original dimensions and used as before, within three (3) years of the date of such damage or destruction; provided, however, that such reconstruction and use shall ~~not~~ to the greatest practical extent, be no more nonconforming than the prior nonconforming building or use. Nothing in this section shall prevent that demolition of the remains of any building so damage destroyed.
  - a) In determining whether the reconstruction is not more nonconforming than the prior building 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 reconstruction or replacement.

**ARTICLE 10: SITE PLAN REVIEW**

**A) Purpose**

**B) Site Plan Application Review Procedures**

- 2) Classification of Projects.
  - b) Tier II projects shall include the following projects:
    - (i) Smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest.
    - (ii) Projects involving the construction or addition of fewer than five thousand (5,000) square feet of gross nonresidential floor area.
    - (iii) Projects involving only the creation of twenty thousand (20,000) to eighty thousand (80,000) square feet of impervious surfaces.
    - (iv) Projects involving the conversion of existing buildings or structures from one use to another without enlargement of the gross floor area.
    - (v) All marijuana uses requiring a Site Plan Review Permit, unless meets the requirements of a Tier III application in subsection d below.
    - (vi) Any project which involves drilling for or excavating natural resources, including mineral extraction, on land or under water where the area affected is between 5,000 and 30,000 square feet.

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- (vii) Any new or change to a Non-Roadside or Cross-Country Distribution Lines (greater than 34.5kV) including changes to the alignment of the lines, lighting, placement of the towers or height of the towers.
- (viii) A change of use that is not within the same classification (i.e. commercial, industrial, institutional).

**D) Approval Criteria**

**E) General Performance Standards**

28) 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.

23) 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.

25) 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,

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- 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.

**F) Use-Specific Performance Standards**

2) Automobile Graveyard & Junkyard -

- a) The proposed use must be screened so that it is not visible from the road and neighboring properties.

3) Automobile Recycling Business

The applicant must demonstrate that the proposed use complies with Title 30-A§3755-A and that:

- a) The proposed use must be screened so that it is not visible from the road and neighboring properties.
- b) A vehicle containing fluids may not be stored within 100 feet of any body of water or freshwater wetland.
- c) A vehicle may not be dismantled or stored within 500 feet of a school, church, cemetery or public playground or park that existed on the date the permit was issued.
- d) A vehicle may not be dismantled or stored over a sand and gravel aquifer or aquifer recharge area.
- e) A vehicle containing fluids may not be dismantled or stored within the 100-year flood plain.

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- f) A vehicle may not be dismantled or stored within 300 feet of a well that serves as a public or private water supply, excluding a private well that serves only the automobile recycling business or the owner or operator's abutting residence.
  - g) A vehicle may not be located or dismantled closer than 20 feet from any lot line, unless the operator has notarized written permission from the abutting property owner.
  - h) Dismantling of a vehicle must be performed in accordance with the following standards.
    - i. Batteries must be removed.
    - ii. All fluids, including but not limited to engine lubricant, transmission fluid, brake fluid, power steering fluid, hydraulic fluid, engine coolant, gasoline, diesel fuel and oil, must be drained into watertight, covered containers and must be recycled or disposed of in accordance with applicable federal and state laws, rules and regulations.
    - iii. Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.
    - iv. Storage, recycling or disposal of all fluids, refrigerant, batteries and mercury switches must comply with all applicable federal and state laws, rules and regulations.
    - v. A log must be maintained of all motor vehicles handled that includes the date each vehicle was acquired, a copy of the vehicle's title or bill of sale and the date or dates upon which all fluids, refrigerant, batteries and mercury switches were removed.
    - vi. All fluids, refrigerant, batteries and mercury switches must be removed from motor vehicles that lack engines or other parts that render the vehicles incapable of being driven under their own motor power or that are otherwise incapable of being driven under their own motor power within 180 days of acquisition.
    - vii. All fluids, refrigerant, batteries and mercury switches must be removed from vehicles before crushing or shredding.
- 4) Automobile Repair Garage
- a) A vehicle may not be repaired within 100ft of any body of water or freshwater wetland
  - b) A vehicle may not be repaired in the 100-year flood plain
  - c) The proposed use shall conform with the Wellhead Protection Act under Title 38, Chapter 13-D.
  - d) Fluids from a vehicle may not be permitted to flow or be discharged into or onto the ground.
  - e) 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.
  - f) Pollution insurance may be required to ensure the automobile repair facility has the resources necessary to clean up any possible pollution due to hazardous, or special materials.

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18) 20) Non-Roadside or Cross-Country Distribution Lines (greater than 34.5kV) and Gas Transmission Pipelines –

- a) The applicant must demonstrate:
  - (i) the proposed cost and benefits of the proposed project,
  - (ii) potential impacts on abutters, the environment and wildlife habitat,
  - (iii) how potential impacts on abutters, the environment and wildlife habitat will be minimized,
- b) The proposed poles/towers shall be located so that it will have the least effect on abutters, the environment, and wildlife habitat.
- c) The construction of non-roadside or cross-country distribution lines or gas pipelines must be scheduled so that the construction will have the least impact on abutting property owners, other persons that may be directly affected by the construction, the environment, and wildlife habitat.
- d) Lighting must be minimized to the greatest extent possible. Blinking lighting shall only be used when no other alternatives are possible.

**Article 11: Administration, Enforcement, & Penalties**

**A) Administering Agencies**

**B) Permits Required**

**C) Permit Application Review Procedure**

**D) Permit Application Submission Requirements**

2) Fees.

- g) Select Board. License fees shall be as follows, plus any and all advertising costs:
  - i) Graveyard or Junkyard License – fifty (\$50) dollars for each license.
  - ii) Automobile Recycling Business – two-hundred fifty (\$250) dollars for a five-year license.
  - iii) Marijuana License & Application Fees – ~~The license fee shall be based on the level of the business's Site Plan Permit:~~
    - A) ~~Tier II Permit – five hundred (\$500) dollars.~~ Non-refundable initial application fee of five hundred dollars (\$500)
    - B) ~~Tier III Permit – one thousand (\$1,000) dollars.~~ Non-refundable renewal application fee one hundred and fifty dollars (\$150)
    - C) Annual Marijuana License – The license fee shall be as follows:
      - i. Marijuana Store \$2,000

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- ii. Manufacturing Facility      \$2,000
- iii. Testing Facility      \$2,000
  
- iv. Cultivation Facility:
  - a) Cultivation Size: up to 500 SF of mature plant canopy      \$500
  - b) Cultivation Size: 501-2000 SF of mature plant canopy      \$2,000
  - c) Cultivation Size: 2001-7000 SF of mature plant canopy      \$5,000
  - d) Cultivation Size: greater than 7,001–20,000 SF of mature plant canopy \$10,000