

**Subdivision Ordinance  
of the  
Town of Bowdoin**

**March 7, 2009**

## TABLE OF CONTENTS

<b>ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA.....</b>	<b>1</b>
1.1 Purposes.....	1
1.2 Statutory Review Criteria.....	1
<b>ARTICLE 2 - AUTHORITY AND ADMINISTRATION.....</b>	<b>2</b>
2.1 Authority.....	2
2.2 Administration.....	2
2.3 Amendments.....	2
2.4 Conflicts with Other Ordinances.....	2
2.5 Effective Date.....	2
<b>ARTICLE 3 - DEFINITIONS.....</b>	<b>3</b>
<b>ARTICLE 4 - ADMINISTRATIVE PROCEDURE.....</b>	<b>9</b>
<b>ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION.....</b>	<b>10</b>
5.1 Purpose.....	10
5.2 Sketch Plan Meeting Procedure.....	10
5.3 Sketch Plan Submissions.....	10
5.4 On-Site Inspection.....	10
5.5 Rights Not Vested.....	11
5.6 Establishment of File.....	11
<b>ARTICLE 6 - PRELIMINARY PLAN APPLICATION.....</b>	<b>12</b>
6.1 Procedure.....	12
6.2 Mandatory Submissions for Preliminary Plan.....	14
<b>ARTICLE 7 - FINAL PLAN APPLICATION.....</b>	<b>21</b>
7.1 Procedure.....	21
7.2 Submissions for Final Plan.....	22
7.3 Final Approval and Filing.....	25
<b>ARTICLE 8 - REVISIONS TO APPROVED PLANS.....</b>	<b>27</b>
8.1 Procedure.....	27
8.2 Submissions.....	27
8.3 Scope of Review.....	27
<b>ARTICLE 9 - INSPECTIONS AND ENFORCEMENT.....</b>	<b>28</b>
9.1 Inspection of Required Improvements.....	28
9.2 Violations and Enforcement.....	29
<b>ARTICLE 10 - PERFORMANCE &amp; DESIGN STANDARDS.....</b>	<b>30</b>
10.1 Basic Subdivision Layout.....	30
10.2 Sufficient Water.....	31
10.3 Erosion and Sedimentation and Impact on Water Bodies.....	32
10.4 Sewage Disposal.....	32
10.5 Solid Waste.....	32
10.6 Impacts on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, and Public Access to the Shoreline.....	33
10.7 Conformance with Land Use and Other Ordinances.....	36
10.8 Financial and Technical Capacity.....	36
10.9 Impact on Ground Water Quality or Quantity.....	37
10.10 Floodplain Management.....	38

10.11	Identification of Freshwater Wetlands, Rivers, Streams or Brooks.....	38
10.12	Stormwater Management and Phosphorus Control in Lake Watersheds.....	38
10.13	Reserved.....	39
10.14	Compliance with Timber Harvesting Rules.....	39
10.15	Subdivision Access and Street Design.....	39
10.16	Lot Owners' Association .....	42
<b>ARTICLE 11 - PERFORMANCE GUARANTEES.....</b>		<b>44</b>
11.1	Types of Guarantees. ....	44
11.2	Contents of Guarantee.....	44
11.3	Escrow Account. ....	44
11.4	Performance Bond. ....	44
11.5	Letter of Credit.....	44
11.6	Release of Guarantee. ....	45
11.7	Default.....	45
11.8	Improvements Guaranteed. ....	45
<b>ARTICLE 12 - WAIVERS.....</b>		<b>46</b>
12.1	Waivers of Certain Submission Requirements Authorized. ....	46
12.2	Waivers of Certain Improvements Authorized. ....	46
12.3	Waiver of Procedural Steps .....	46
12.4	Conditions for Waivers. ....	47
12.5	Timing of Waiver Requests .....	47
12.6	Final Determination and Granting of Waivers.....	47
12.7	Waivers Shall Be Shown on Final Plan. ....	47
<b>ARTICLE 13 - APPEALS.....</b>		<b>48</b>
13.1	Appeals. ....	48

**ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA**

**1.1 Purposes.**

The purposes of this Ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Bowdoin meets the goals and conforms to the policies of the *Town of Bowdoin Comprehensive Plan*;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Bowdoin;
- D. To protect the environment and conserve the natural and cultural resources identified in the *Town of Bowdoin Comprehensive Plan* as important to the community;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts of new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

**1.2 Statutory Review Criteria.**

When reviewing any application for a subdivision, as defined by Article 3, the Planning Board shall consider the criteria found in Title 30-A M.R.S.A. §4404 and determine that these criteria have been met, as well as all applicable provisions of town ordinances and other sections of this Ordinance, before granting approval. In addition, the Planning Board shall determine that the proposed subdivision will not cause unreasonable or unsafe conditions with respect to the use of private roads.

RECORDS - FINANCE AND ADMINISTRATION

## ARTICLE 2 - AUTHORITY AND ADMINISTRATION

### 2.1 *Authority.*

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A. §4403, Title 30-A M.R.S.A., §3001, and Article VIII, Part 2, Section 1 of the Maine Constitution.
- B. These standards shall be known and may be cited as the "*Subdivision Ordinance of the Town of Bowdoin.*"

### 2.2 *Administration.*

- A. The Planning Board of the Town of Bowdoin, hereinafter called the Board, shall administer this Ordinance.
- B. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Bowdoin.

### 2.3 *Amendments.*

- A. This Ordinance may be amended by the Bowdoin Town Meeting.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided and copies of the proposed amendment shall be available at least seven days in advance of the hearing.

### 2.4 *Conflicts with Other Ordinances.*

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall control.

### 2.5 *Effective Date*

This ordinance becomes effective upon passage by the Bowdoin Town Meeting, and it repeals and replaces "*Regulations Governing the Review of Subdivision Applications in the Town of Bowdoin*" that took effect August 23, 1977, and all amendments thereto.

### ARTICLE 3 - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. Other words and terms used herein are defined as follows:

**Applicant:** The person applying for subdivision approval under this Ordinance.

**Application Form:** Forms provided by the Town for the purpose of applying for a subdivision.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Building Envelope:** A building envelope is that area on a lot within which the principal buildings must be contained. It is defined by setbacks from front, side, and rear lot and street right of way lines and environmental constraints such as wetlands, waterbodies, and steep slopes.

**Buffer Area:** A part of a property or an entire property which is not built upon and is specifically intended to separate a land use activity and its effects (e.g. noise, dust, visibility, glare, runoff etc.) from adjacent properties and sensitive natural resources.

**Common Land:** Land within or related to a subdivision, not individually owned or within an individual residential lot, which is designed and intended for: (a) formal uses such as walkways, parks and greens; (b) recreational uses such as playgrounds, fields and courts for the common use and enjoyment of the residents of the subdivision, or if so designated by the applicant in the subdivision plan, for use by the general public; or (c) natural uses such as wildlife habitat preservation, wood lots, buffer zones, and preservation of scenic features and natural views. Common open space is intended to help preserve the Town's rural character, protect natural features and habitat, provide an attractive living environment for the residents of the subdivision, and where applicable, for the general public. It may include complementary structures and improvements, typically used for maintenance and use of the open space, such as for outdoor recreation or agricultural use.

**Complete Application:** An application shall be considered complete when the Board issues a written statement to the applicant indicating that the applicant has submitted the required fee and all information required by this Ordinance excepting specific information that was waived by a vote of the Board in response to the applicant's written request for a waiver.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than thirty percent of the costs of the required improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the applicant, the cost of construction of buildings on those lots shall not be included.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to a Great Pond without first passing through an upstream Great Pond. For the purposes of this Ordinance, the watershed boundaries shall be as delineated in the *Town of Bowdoin Comprehensive Plan*, or as depicted in the drainage divide data layer provided by the Maine Office of Geographic Information Systems. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board, or its designee, and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a licensed professional land surveyor showing where the drainage divide lies.

**Driveway:** A vehicular accessway serving no more than 2 dwellings. Driveways do not constitute "roads" for purposes of calculating road frontage.

**Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities for one family. Dwelling unit includes single family houses, mobile homes, and the individual units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher Biological Oxygen Demand (BOD<sub>5</sub>) and total suspended solids concentrations than domestic waste water.

**Floodway:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is 6 meters tall or taller.

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not considered part of a Great Pond, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

ARTICLE 3 - DEFINITIONS

**100-Year Flood:** The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

**High Water Mark:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and Great Ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or Great Pond during the period of normal high-water are considered part of the river or Great Pond.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with industry standards. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Mapped Aquifer Recharge Area:** A sand and gravel aquifer as shown on maps prepared by the Maine Geological Survey, entitled *Hydrogeologic Data for Significant Sand and Gravel Aquifers* (Bowdoinham Quad, Open File 04-80; Lisbon Falls North Quad, Open File 99-23 or most current version thereof).

**Municipal Engineer:** Any licensed professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Net Residential Area:** The portion of a parcel that is used to determine the allowable density of a subdivision. Article 10.6.A.2 lists those areas of a parcel that must be excluded from the calculation of allowable density, such as steep slopes, wetlands, and certain types of habitat.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Planning Board:** The Planning Board of the Town of Bowdoin.

**Preliminary Plan:** The preliminary drawings submitted to the Planning Board for its consideration indicating the proposed layout of the subdivision.

**Professional Engineer:** A professional engineer, licensed in the State of Maine.

**Professional Land Surveyor:** A professional land surveyor, licensed in the State of Maine.

**Public Water System:** A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

**Public Water Utility:** A utility, whether publicly or privately owned, that provides water to residential, commercial, and/or industrial users and is regulated by the Maine Public Utilities Commission.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which shows information relevant to the transfer of an interest in the property and information deemed necessary by the Planning Board.



**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

**Significant Wildlife Habitat:** Significant wildlife habitat shall be as defined by Inland Fisheries and Wildlife (09-137 C.M.R. 10).

**Stream or Brook:** Stream or brook means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics.

- A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map.
- B. It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most years.
- C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

“Stream or brook” does not mean a ditch, grassy swale, or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water.

**Road:** A street.

**Sight Distance:** The length of an unobstructed view measured from the driver’s seat of a vehicle standing on that portion of an exit with the front of the vehicle a minimum of ten (10) feet behind the pavement or edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.25 feet above the road surface at the center of the traveled way. The term is used in this Ordinance as a reference for meeting unobstructed road visibility requirements.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

**Soil Survey, High Intensity (Class A):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Soil Survey, High Intensity (Class B):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to one acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits

ARTICLE 3 - DEFINITIONS

and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Soil Survey, Medium High Intensity (Class C):** A map prepared by a Maine Licensed Soils Scientist, identifying the soil types down to five acres or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Steep Slopes:** Slopes of 25% or more.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Street Classification:**

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways are examples of arterial streets: Routes 201, 138, and 125.

**Collector Street:** A street with average daily traffic of 500 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor residential streets.

**Cul-de-sac:** A street with only one outlet and a circular turn-around at the end.

**Minor collector:** Streets which collect traffic from streets that are not arterials or collectors as defined above.

**Subdivision:** The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended.

**Subdivision, Major:** A subdivision containing more than four lots and/or dwelling units.

**Subdivision, Minor:** A subdivision containing no more than four lots and/or dwelling units. If a road or other public water or sewer facilities are proposed, the Planning Board may require that the subdivision be reviewed as a major subdivision.

**Town:** The Town of Bowdoin, Maine.

**Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

**Usable Open Space:** That portion of the common land which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or contain areas with sustained slopes exceeding 10%.

**Vernal Pool:** A vernal pool, also referred to as a seasonal forest pool, is a natural, temporary to semi-permanent body of water occurring in a shallow depression that typically fills during the spring or fall and may dry during the summer.

**Vernal Pool, Significant:** Significant vernal pools shall be as defined in the Maine Department of Environmental Protection's rules (06-096 C.M.R. 335).

**Wetland:** A freshwater wetland, as defined by the Maine Natural Resource Protection Act, means fresh water swamps, marshes, bogs and similar areas that are: inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and not considered part of a Great Pond, coastal wetland, river, stream or brook. (Title 38 M.R.S.A. §480-B, or as amended).

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

**ARTICLE 4 - ADMINISTRATIVE PROCEDURE**

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, applicants proposing subdivisions shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any subdivision application not appearing on the Board's written agenda.

## ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

### 5.1 Purpose.

The purpose of the sketch plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

### 5.2 Sketch Plan Meeting Procedure.

- A. The applicant shall present the Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection shall be selected.
- D. Water District: The Planning Board shall notify the water district of this meeting if any portion of the subdivision is located within the mapped aquifer recharge area of the water district's supply or if the subdivision intends to utilize the district's water supply system.

### 5.3 Sketch Plan Submissions.

Eleven (11) copies of the sketch plan and all supporting materials must be submitted 10 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on, or accompanied by, a copy of the Assessor's Map(s) on which the land is shown. The sketch plan shall be accompanied by:

- A. A sketch plan application form and a non-refundable sketch plan application fee of \$100;
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- C. A copy of that portion of the Sagadahoc County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

### 5.4 On-Site Inspection.

Within thirty days of the sketch plan meeting, or at such other time as may be mutually agreed to by the Board and the applicant, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval and the class of soils survey to be provided on the Preliminary Plan or Final Plan, in the case of a minor subdivision. The applicant shall place "flagging" at the centerline of any proposed streets,

ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings to be constructed by the applicant, the approximate corners of proposed building footprints shall be "flagged." The Board may choose not to conduct on-site inspections when there is inclement weather and may delay the on-site inspection during winter until the ground is bare. Public notice of on-site inspections shall be given as required by Title 1 M.R.S.A. §401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

**5.5 *Rights Not Vested.***

The sketch plan meeting, the submittal and review of the sketch plan, and the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 M.R.S.A. §302. As applied here, this means the sketch plan review does not constitute a substantive review that triggers vested rights.

**5.6 *Establishment of File.***

Following the sketch plan meeting, the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and application shall be maintained in the file.

## ARTICLE 6 - PRELIMINARY PLAN APPLICATION

### 6.1 Procedure.

- A. No more than six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a Preliminary Plan. The Preliminary Plan must be submitted at least 10 days prior to a scheduled meeting of the Board to be considered at that meeting. The applicant shall deliver 11 complete copies of the Preliminary Plan application, plus all accompanying information, in the following manner: one copy to each Planning Board member by Registered Mail and the remaining copies to the Town office. Failure to submit an application within six months of the on-site inspection shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

If an applicant cannot submit the Preliminary Plan within six months due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. A request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. The request for an extension shall state the reason for the delay and set forth a timetable for Preliminary Plan submission. In acting on the request for an extension, the Board shall make findings regarding whether the applicant has made due progress in preparing the Preliminary Plan and pursuing approval of the plans before other agencies. The Board may grant a maximum of two 90-day extensions.

- B. All applications for Preliminary Plan approval shall be accompanied by a nonrefundable application fee of \$150 per residential lot or \$150 per dwelling unit if the subdivision consists of a building with multiple dwelling units. The fee shall be payable by check to the Town of Bowdoin. In addition, the applicant shall pay a fee of \$250 per lot or dwelling unit to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with all applicable Town ordinances. This money for hiring consulting services will be deposited in a special escrow account designated for that subdivision application. If the balance in this special escrow account is drawn down by 75%, the Board shall notify the applicant that they must pay additional fees to return the balance to the original deposit amount. The Board shall continue to notify the applicant and require additional monies as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the Final Plan application by the Board shall be returned to the applicant within 90 days.
- C. The Board shall not review any Preliminary Plan application unless the applicant or applicant's representative attends the meeting. If the applicant or applicant's representative fails to attend, the applicant shall contact the Board to reschedule review of the application at a future, regularly scheduled meeting.
- D. At the meeting at which an application for Preliminary Plan approval is initially presented, or within seven days thereafter, the Planning Board shall do the following:
1. Issue a dated receipt to the applicant.
  2. Notify in writing by First Class Mail all property owners within 1,000 feet of the boundaries of the subdivision that an application for subdivision approval has

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

- been submitted. The notice shall specify the location of the proposed subdivision and include a general description of the project.
3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- E. If at any time, the applicant wishes to bring additional information before the Board, 11 copies of the supplemental information must be submitted to the Planning Board members and the Town office according to the procedures described in Article 6.1.A.
  - F. Within thirty days of the receipt of the Preliminary Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
  - G. Upon determination that a complete application has been submitted for review, the Board shall notify in writing the CEO, Road Commissioner, Fire Chief, and Superintendent of Schools of the proposed subdivision. The notice shall include the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
  - H. The Board shall hold a public hearing within thirty days of determining that it has received a complete application. It shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to all property owners within 1,000 feet of the boundaries of the proposed subdivision and to the applicant, at least ten days prior to the hearing.
  - I. No more than thirty days after the public hearing, or at such other time as may be mutually agreed to by the Board and the applicant, the Board shall make a decision on the application, including waiver requests. The Board may continue the public hearing to gather more evidence or may schedule an additional hearing as needed. In its decision, it shall make findings of fact and approve, approve with conditions, or deny the Preliminary Plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
  - J. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to the following:
    1. The specific changes which it will require for the Final Plan;
    2. A list of required improvements and submission requirements for which waivers were requested by the applicant and which the Board finds may be waived without jeopardy to public health, safety, and welfare. This shall include a description of the nature and extent of each waiver granted; and



3. The required improvements and construction items for which cost estimates and performance guarantees will be required as a prerequisite to approval of the Final Plan.

K. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan. Rather, it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted to the Board for approval upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional information and changes in the plan as a result of further study of the proposed subdivision or as a result of new information received.

#### 6.2 *Mandatory Submissions for Preliminary Plan.*

The following items shall be submitted as part of the Preliminary Plan Application (see Article 6.1 for submission procedures) excepting those items for which the applicant submits a written waiver request in accordance with Article 12. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance are met.

A. Application Form.

Eleven copies of the application form and all accompanying information.

B. Location Map.

The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions within 1,000 feet of the proposed subdivision.
2. All lots, including Map and Lot number, within 1,000 feet of the proposed subdivision.
3. Locations and names of existing and proposed streets.
4. Boundaries and designations of zoning districts.
5. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

C. Preliminary Plan. The Preliminary Plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can be read easily. Plans shall be 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderlines on the left side for binding and a one-inch margin outside the border along the remaining sides. The application materials for Preliminary Plan approval shall include the following information which must be shown on the Plan, except as noted.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

ARTICLE 9 - PRELIMINARY PLAN APPLICATION

2. Verification of the applicant's right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. (Not shown on 24 x 36 Plan.)
3. A boundary survey of the parcel to be subdivided, giving complete descriptive data by bearings and distances, made and signed by a Licensed Professional Land Surveyor. The corners of the parcel and the centerline of the roads shall be located on the ground and marked on the site by suitable temporary markers. All contiguous land in common ownership within the prior five years shall be depicted on the plan, but is not required to be surveyed.
4. A copy of the most recently recorded deed for the parcel. A copy of all legal documents establishing deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. (Not shown on 24 x 36 Plan.)
5. A copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision. (Not shown on 24 x 36 Plan.)
6. An indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator or Maine Licensed Soils Scientist shall be provided. (Not shown on 24 x 36 Plan.) The location of all passing soil test pits dug on the site shall be shown on the Plan.
7. An indication of the type of water supply system(s) to be used in the subdivision. (Not shown on 24 x 36 Plan.)
  - a. When water is to be supplied by a public water utility, a written statement from the servicing water utility shall be submitted indicating there is adequate supply and pressure for the subdivision and the district has reviewed and approved the water system design.
  - b. A description of fire protection measures, including a letter from the Bowdoin Fire Chief approving all hydrant locations and/or other fire protection measures.
  - c. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, individual or company who prepared the plan, and property owners within 1,000 feet of the boundaries of the proposed subdivision. (Not shown on 24 x 36 Plan)
10. Wetland areas shall be delineated on the survey, regardless of size, by a Wetland Scientist who has experience and training in soils and wetland vegetation, in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.

12. The location of all rivers, streams, brooks, and significant vernal pools within the proposed subdivision, including direction of flow of all rivers, streams, and brooks. If any portion of the proposed subdivision is located in the direct watershed of a Great Pond, the application shall indicate into which Great Pond the area drains.
13. The location of any zoning boundaries within the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, utilities, and drainage ways on, adjacent to, or servicing the property to be subdivided.
15. The location, names, and current widths of existing streets and highways within or immediately adjacent to the proposed subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line within the subdivision to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established, if available.
  - a. A written description of the travel surface and condition of existing streets and highways within or immediately adjacent to the proposed subdivision. (Not shown on 24 x 36 Plan.)
16. The location, size, and names of easements, rights of ways, deed restricted areas, encumbrances, and public recreation areas, existing or proposed, on or adjacent to the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. The location of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common land to be created. A general description of proposed ownership, improvement, and management of such areas should be provided (Not shown on 24 x 36 Plan).
20. On each lot, the location of the building envelope, the area where existing forest cover may be removed and converted to lawn, structures or other cover, and areas where restrictions are proposed to be placed on clearing existing vegetation.
21. If any portion of the subdivision is in a flood-prone area, the boundaries of flood hazard areas and the base flood elevation, as determined from *FEMA Flood Boundary and Floodway Maps* and *Flood Insurance Rate Map – Town of Bowdoin, Maine*. The requirements of Article 10.10 Floodplain Management must also be met.
22. Letters and associated information from the Maine Natural Areas Program and Maine Department of Inland Fisheries and Wildlife confirming the presence or absence of any areas within or adjacent to the proposed subdivision which have been identified as unique natural areas by the Maine Natural Areas Program, or as significant habitat by the Maine Department of Inland Fisheries and Wildlife

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

(see Article 10.6 for details). If any portion of the subdivision is located within an area so designated by the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife, the plan shall indicate appropriate measures for preservation of the values which qualify the area for such designation. (Not shown on 24 x 36 Plan.)

23. Identification of any important historic, cultural, or natural features within or adjacent to the proposed subdivision that are identified in the Bowdoin Comprehensive Plan. A description of measures proposed to preserve the values of these features shall be provided. (Not shown on 24 x 36 Plan).
24. Letters and associated information from the Maine Historic Preservation Commission identifying whether there are any areas within or adjacent to the proposed subdivision which are either: listed on or eligible to be listed on the National Register of Historic Places; or, identified by the Maine Historic Preservation Commission (MHPC) as sensitive cultural or archaeological sites. If the MHPC believes the proposed subdivision may contain sensitive archaeological sites, the applicant shall conduct and submit a preliminary archaeological survey. (Not shown on 24 x 36 Plan.)
25. The location of any existing streams, ponds, or proposed water storage tanks that would provide a suitable water supply for fire protection to the subdivision in accordance with Article 10.2.A.3.d.
26. A high intensity soils survey prepared by a Maine Certified Soils Scientist. The Planning Board will determine whether major subdivisions will submit a Class A or Class B high intensity soils survey. Minor subdivisions may submit a Class C soils survey unless the Planning Board requires a higher intensity survey. The Planning Board shall require a Class A soil survey for the following: (1) any roads, driveways, and areas within the building envelope that have soils rated as having "somewhat limited" or "very limited" suitability for dwellings with basements or local roads and streets by the Natural Resources Conservation Service; and, (2) areas with steep slopes or other features that could create hydrologic or environmental problems.
27. A stormwater management plan prepared in accordance with the requirements of Article 10.12 of this Ordinance.
28. A copy of deed covenants and other legal documents pertaining to the ownership and maintenance of private roads by a lot owners' association or similar entity. These documents must meet the requirements of Article 10.16. (Not shown on 24 x 36 Plan.)
29. The location and method of disposal of debris from land clearing, construction, and required improvements. (Not shown on 24 x 36 Plan.)
30. Evidence of financial capacity to undertake the proposed subdivision, including information such as the following, when appropriate (Not shown on 24 x 36 Plan.):
  - a. Accurate and complete cost estimates of the development;
  - b. Time schedule for construction;

- c. A letter from a financial institution or other funding agency indicating a commitment to provide a specified amount of funds and the uses for which the funds may be utilized;
  - d. A letter of "intent to fund" from the appropriate funding institution indicating the amount of funds and their specified uses;
  - e. Copies of bank statements or other evidence indicating availability of funds, when the developer will personally finance the development;
  - f. Performance bond.
31. Evidence of technical capacity to undertake the proposed subdivision, including documentation of the experience and training of the applicant's consultants. (Not shown on 24 x 36 Plan.)
32. If any portion of the proposed subdivision is in the direct watershed of a Great Pond, and meets the stormwater management criteria of Article 10.12.D, the following shall be submitted or indicated on the plan:
- a. A phosphorus impact analysis and control plan conducted using the procedures set forth in the Department of Environmental Protection's *Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual*, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Manual.
  - b. A long-term maintenance plan for all phosphorus control measures.
  - c. The contour lines shown on the plan shall be at an interval of no greater than five feet.
  - d. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
33. Street design plans meeting the requirements of Article 10.15 and the "Road Design Standards of the Town of Bowdoin."
34. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices*, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). The Board may require the review and endorsement of this plan by a qualified professional. At a minimum, the following items shall be provided:
- a. Name, address, and telephone number of the person responsible for implementation of the erosion control plan.
  - b. Map showing the location of waterbodies in the vicinity that may be affected by erosion and sedimentation from the project.
  - c. Pre-construction and post-construction drainage patterns, including drainage channels that drain to surrounding waterbodies.

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

- d. A description of construction stages, in the order they will occur, including details of how soil disturbance will be minimized during the construction process.
  - e. Clear identification of areas to be disturbed and buffer areas that will remain undisturbed, and an indication of how buffer areas will be protected during construction.
  - f. Description of temporary and permanent erosion control measures that will be used.
  - g. Identification of the locations of all temporary and permanent erosion control measures.
  - h. Identification of how and where collected sediment will be disposed.
  - i. Dust control measures.
  - j. Inspection and maintenance procedures for erosion control measures, including schedule and frequency.
35. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level or local assumed datum. An on-ground topographical survey (with a maximum 2-foot contour interval) is required for areas within 50 feet of the centerline of the right of way of proposed internal subdivision roads in major subdivisions. The Planning Board will determine the extent of any additional on-ground topographical surveys that may be required based on the extent of any proposed grading which may create significant changes in elevation or slope. The Board may accept contours, at an appropriate interval, that have been produced by photogrammetric methods for such additional surveys.
36. Hydrogeologic assessment.  
A hydrogeologic assessment, including a nitrate study, prepared by a Licensed Professional Geologist or Licensed Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "*Hydrogeologic Data for Significant Sand and Gravel Aquifers*," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
  - b. The subdivision has an average density of more than one dwelling unit per 2.5 acres.

The Board may require a hydrogeologic assessment, including a nitrate study, in other cases where site considerations or development design indicate greater potential for adverse impacts on groundwater quality. These cases include extensive areas of shallow to bedrock soils; or developments in which the average density is less than one dwelling unit per 2.5 acres but the density of the developed portion is in excess of one dwelling unit per 2 acres; and proposed use of shared or common subsurface wastewater disposal systems. The

hydrogeologic assessment shall be conducted in accordance with the provisions of Article 10.9. (Not shown on 24 x 36 Plan.)

37. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be ten trips per day per residential lot or dwelling unit. (Not shown on 24 x 36 Plan.)

38. Traffic Impact Analysis prepared by a Licensed Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. (Not shown on 24 x 36 Plan.)

D. Submissions for Which a Waiver May be Requested. Pursuant to Article 12, Waivers, the applicant may submit written waiver requests as part of the Preliminary Plan application for the following items only. Submissions related to items for which waivers have been requested are not required as part of the Preliminary Plan.

1. Hydrogeological assessment. A hydrogeological assessment may be waived only when the subdivision is served by a public sewer, or, when the subdivision is not served by a public sewer, and:
  - a. No part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "*Hydrogeologic Data for Significant Sand and Gravel Aquifers*," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
  - b. The subdivision has an average density of less than one dwelling unit per 2.5 acres.
2. Traffic impact analysis. The traffic impact analysis may be waived for projects expected to generate less than 140 trips per day.

E. The Planning Board may require any additional information not listed above, when it finds additional information is necessary to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 and this Ordinance have been met.

## ARTICLE 7 - FINAL PLAN APPLICATION

### 7.1 Procedure.

- A. Within six months of the approval of the Preliminary Plan, the applicant shall submit an application for approval of the Final Plan. The applicant shall submit the application and all supporting materials, at least 10 days prior to a scheduled meeting of the Board to be considered at that meeting. The applicant shall deliver eleven (11) complete copies of the Final Plan application, plus all accompanying information, in the following manner: one copy to each Planning Board member by Registered Mail and the remaining copies to the Town office. If the application for the Final Plan is not submitted within six months of Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.

If an applicant cannot submit the Final Plan within six months, the applicant may request an extension. A request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. The request for an extension shall state the reason for the delay and set forth a timetable for Final Plan submission. In acting on the request for an extension, the Board shall make findings regarding whether the applicant has made due progress in preparing the Final Plan and pursuing approval of the plans before other agencies. The Board may grant a maximum of two 90-day extensions.

- B. All applications for Final Plan approval for a major subdivision shall be accompanied by a non-refundable application fee of \$500 payable by check to the Town of Bowdoin. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the Final Plan application and supporting materials, in accordance with the procedures of Article 6.1.B of this Ordinance.
- C. Prior to approval of the Final Plan application, the following approvals shall be obtained in writing, where applicable:
1. Maine Department of Environmental Protection, under the Site Location of Development Act.
  2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if a Maine Pollution Discharge Elimination System (MPDES) wastewater discharge license is needed.
  3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
  5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of its regulations to the proposal.



- D. The Board shall not review any Final Plan application unless the applicant or applicant's representative attends the meeting. If the applicant or applicant's representative fails to attend, the applicant shall contact the Board at least 10 days prior to a scheduled meeting to reschedule review of the application at a future, regularly scheduled meeting.
- E. At the meeting at which an application for Final Plan approval of a subdivision is initially presented, or within seven days of receipt of the Final Plan application, the Board or its designee shall issue a dated receipt to the applicant.
- F. Within thirty days of receipt of the Final Plan application, the Board shall determine whether the application is complete. If the application is not complete, the Board shall notify the applicant in writing of the specific additional materials needed to complete the application.
- G. Upon its determination that the application submitted for review is complete, the Board shall notify the applicant in writing.
- H. The Board shall hold a public hearing within thirty days of determining that it has received a complete Final Application. It shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least two prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to all property owners within 1000 feet of the boundaries of the proposed subdivision and to the applicant at least ten days prior to the hearing.
- I. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in Article 11.
- J. Within thirty days of the final public hearing, or at such other time as mutually agreed to by the Board and the applicant, the Board shall make a decision on the application. The Board may continue the public hearing to gather more evidence or may schedule an additional hearing as needed. In its decision, it shall make findings of fact and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A. §4404 and this Ordinance, and the standards of this Ordinance. If the Board finds that all of the statutory criteria and standards of this Ordinance have been met, it shall approve the Final Plan. If the Board finds that any of the statutory criteria or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions which ensure that all standards will be met by the subdivision. The reasons for any conditions shall be stated in the Board's records.

**7.2 Submissions for Final Plan.**

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be 24 by 36 inches in size, and

ARTICLE 7 - FINAL PLAN APPLICATION

shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. The submissions must include the following: two reproducible, stable-based transparencies of the recording plan, one to be recorded at the Registry of Deeds and one for the town records; and eleven (11) full sized paper copies of all the Final Plan sheets and any supporting documents.

In addition to all of the submissions required as part of the Preliminary Plan application, the Final Plan and accompanying information must include the following submissions:

- A. Completed Final Plan Application
- B. Proposed name of the subdivision, the name of the municipality in which it is located, and the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- E. An indication of the type of water supply system(s) to be used in the subdivision.
  1. When water is to be supplied by an existing public water utility, a written statement from the servicing water utility shall be submitted indicating it has reviewed and approved the water system design.
  2. A written statement shall be submitted from the Bowdoin Fire Chief commenting on the adequacy of all existing and proposed fire protection measures, including hydrant locations if applicable.
  3. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- F. The date the plan was prepared, north point, graphic map scale.
- G. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- H. The zone designation and location of any zoning boundaries affecting the subdivision.
- I. A copy of any deed restrictions proposed to cover all or part of the lots or dwellings in the subdivision.
- J. The location and size of existing and proposed sewers, water mains, culverts, utilities and drainage ways on or adjacent to the property to be subdivided.
- K. The location, names, and widths of existing and proposed streets and highways, in or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line within the

subdivision to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established, if available. The location, bearing, and length of street lines, lot lines and parcel boundary lines shall be determined by a Licensed Professional Land Surveyor. The original reproducible plans shall be embossed with the seal of a Licensed Professional Land Surveyor and signed by that individual.

- L. The location, size, and names of easements and public recreation areas, existing or proposed, in or adjacent to the subdivision.
- M. To facilitate the addition of the subdivision into the Town property records and geographic information system (GIS), the applicant shall submit subdivision plans in an electronic format compatible with the municipal system (if available). Survey grade GPS data (specifically pin locations, wetland boundaries, etc.) when available, shall also be submitted; these data should be clearly attributed so that a user may know to what the points/lines refer.
- N. Street design plans meeting the requirements of Article 10.15 and the "*Road Design Standards of the Town of Bowdoin*," including the following:
  - 1. Detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets within the subdivision. The plan view scale shall be one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
    - a. Date, scale, and north point, indicating magnetic or true.
    - b. Intersections of the proposed street with existing streets.
    - c. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
    - d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
    - e. Complete curve data shall be indicated for all horizontal and vertical curves.
    - f. Turning radii at all intersections.
    - g. Centerline gradients.
    - h. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, including but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- O. List of all parcels of land proposed to be dedicated to public use and the conditions of such dedication. The following shall be submitted:
  - 1. Written offers to convey title of any streets and/or open spaces shown on the Plan which are proposed to be dedicated to the municipality. If proposed streets, open spaces, or other land is to be offered to the municipality, written evidence that the Board of Selectman is satisfied with the legal sufficiency of the written offer to convey title shall be submitted; and,
  - 2. Copies of agreements or other documents showing the manner in which common land to be retained by the developer or lot owners is to be managed and maintained. These may include lot owners' association by-laws and condominium declarations. The Planning Board may require an affidavit from an attorney that the required documents are legally sufficient to preserve and maintain common land, recreation land, and other common facilities.

ARTICLE 7 - FINAL PLAN APPLICATION

- P. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the base flood elevation, as determined using *FEMA Flood Boundary and Floodway Maps* and *Flood Insurance Rate Maps - Town of Bowdoin, Maine*, shall be delineated on the plan. The proposed subdivision plan must include, as a condition of plan approval, a requirement that principal structures in the subdivision be constructed with their lowest floor, including the basement, at least one foot above the base flood elevation. The requirements of Article 10.10, Floodplain Management must also be met.
- Q. The location and method of disposal of debris from land clearing, construction, and required improvements.
- R. A list of required improvements and construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has the financial commitments or resources to cover these costs.
- S. For subdivisions of 15 lots or more, a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town or quasi-municipal districts. These lists shall include but not be limited to:
1. Schools
  2. Street maintenance and snow removal
  3. Police and fire protection
  4. Solid waste disposal and recycling
  5. Recreation facilities
  6. Storm water drainage
- The applicant shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.
- T. If the Preliminary Plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, the applicant shall submit a letter from the Maine Historic Preservation Commission approving the management plan for these areas and any measures proposed to mitigate impacts of the proposed subdivision.
- U. Demonstrated compliance with the Town of Bowdoin's "*E-911 Ordinance*," including written approval of any proposed street names from the Town of Bowdoin E-911 Addressing Officer.
- V. If waiver requests for Preliminary Plan submissions were denied by the Board, the required materials shall be included in the Final Plan application.
- W. All legal documents needed to establish the lot owners' association.

**7.3 Final Approval and Filing.**

- A. No plan shall be approved by the Board as long as the applicant, or any entity in which the applicant has a legal or financial interest, is in violation of the provisions of a previously approved Plan within the Town of Bowdoin.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A. §4404, and this Ordinance have been met, and upon voting to approve the

subdivision, a simple majority of the Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reasons for its approval, any conditions of approval, or denial. One original Mylar copy of the signed plan shall be immediately retained by the Board as part of the Town's permanent records. Copies of the signed plan shall be forwarded to the tax assessor, the code enforcement officer, and one shall be retained for the town records. The applicant shall provide the Board with certification from the Registry of Deeds that the Final Plan was duly recorded. Any subdivision not recorded in the Sagadahoc County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Sagadahoc County Registry of Deeds to that effect.

- C. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised Final Plan is first submitted and the Board approves any modifications, in accordance with Article 8. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance, and the standards of this Ordinance. In the event that a Final Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall have a notice placed in the Sagadahoc County Registry of Deeds to that effect.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the Final Plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Final Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- E. Failure to complete a portion of the improvements which represents at least 10% of the total cost of the required improvements within five years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
- F. Failure to complete substantial construction of the subdivision within ten years of the date of approval and signing of the plan shall trigger review of the project by the Planning Board in consultation with the Selectmen. The Planning Board may nullify the Plan, portions of the Plan, or utilize performance guarantees to complete the project.

## ARTICLE 8 - REVISIONS TO APPROVED PLANS

### 8.1 *Procedure.*

An applicant proposing a revision to a previously approved subdivision plan shall, at least 10 days prior to a scheduled meeting of the Planning Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Preliminary and Final Plan approval shall be followed, but per lot/dwelling unit fees are required only for the additional lots or dwelling units. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed and an application fee of \$150 shall be paid to the town.

### 8.2 *Submissions.*

The applicant shall submit a copy of the previously approved Plan as well as 11 copies of the proposed revisions following applicable guidelines for Preliminary or Final Plan submissions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance. The revised plan shall indicate that it is the revision of a previously approved and recorded Final Plan and shall show the title of the subdivision and the book and page on which the original plan is recorded at the Sagadahoc County Registry of Deeds.

### 8.3 *Scope of Review.*

The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed. When acting on proposed revisions, the Planning Board shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of Title 30-A M.R.S.A. §4404 and this Ordinance.

## ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

### 9.1 *Inspection of Required Improvements.*

- A. At least five days prior to commencing construction of required improvements, the applicant shall:
1. Notify the code enforcement officer in writing of the time when construction of such improvements is proposed to commence, so that the Board of Selectmen can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of all improvements and utilities required by the Board.
  2. Deposit with the Board of Selectmen a check made out to the Town of Bowdoin for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the applicant as appropriate. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, the inspecting official shall so report in writing to the Board of Selectmen, Board, and the applicant. The Board of Selectmen and Planning Board shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this article in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the applicant shall obtain permission from the Board to modify the plans in accordance with Article 8.
- D. At the close of each summer construction season, the Town shall, at the expense of the applicant, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the applicant shall provide the Board with a letter from a licensed professional land surveyor, stating that all required monumentation shown on the plan has been installed.
- F. Upon completion of street construction, a written certification stamped and signed by a Professional Engineer shall be submitted to the Planning Board at the expense of

the applicant, certifying that the proposed street meets or exceeds the design and construction requirements of this Ordinance and of the "*Road Design Standards of the Town of Bowdoin*," but taking into account any waivers that have been approved by the Planning Board.

- G. The applicant shall be required to maintain all improvements and provide for snow removal on streets until control is placed with a lot owners' association.

**9.2 *Violations and Enforcement.***

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Sagadahoc County Registry of Deeds until the Final Plan has been approved by the Board in accordance with this Ordinance.
- B. A person or entity shall not convey, offer, or agree to convey any land in a subdivision for which the Final Plan has not been approved by the Board and recorded in the Registry of Deeds.
- C. No public utility, water district, or utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- D. Development of a subdivision without Board approval shall be a violation of law and of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this Ordinance and recorded in the Sagadahoc County Registry of Deeds.
- E. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road by which the unit is accessed is completed in accordance with this Ordinance. The final paving is not required to be completed prior to the sale of lots if a performance guarantee is in place.
- F. Violations of this Ordinance including any codes or regulations adopted by reference shall constitute a civil violation subject to the penalties imposed by Title 30-A M.R.S.A., §4452. All civil penalties shall be payable to the Town of Bowdoin.



## ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1.2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory and other criteria for approval have been or will be met.

### 10.1 *Basic Subdivision Layout.*

#### A. Lots.

1. Side lot lines should be as near to perpendicular to the road as practicable.
2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of this Ordinance, and conditions placed on the original approval.
3. If a lot on one side of a stream or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or Great Pond as these features are defined in Title 38 M.R.S.A. §480-B, none of the lots created within the subdivision may have a lot depth to shore frontage ratio greater than 5 to 1.
5. The lot numbering and street names shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Board.

#### B. Monuments.

1. Major subdivisions
  - a. Stone or concrete monuments or iron pins, at the discretion of the Planning Board, shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
  - b. Stone or concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
  - c. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. If bedrock is less than 2.5 feet below grade, the monuments shall be attached to the bedrock and may be less than three feet long. After they are set, drill-holes 1/2 inch deep with an iron plug shall locate the point or points described above.
  - d. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation in accordance with the standards of the Maine Board of Licensure for Professional Land Surveyors.

2. Minor Subdivisions may be set with iron pins at the corner points of every lot (a minimum of four (4) pins).

**10.2 Sufficient Water.**

**A. Water Supply.**

1. Reserved.
2. When a subdivision is to be served by a public water utility, the complete supply system within the subdivision including any fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water district and the fire chief. Fire hydrants connected to a public water utility shall be located no further than 500 feet from any building. Once the completed system has been installed and successfully tested by the servicing water district it will be deeded to the servicing water district at no cost, along with any easements necessary to permit maintenance or repair in the future.
3. When a proposed subdivision will not be served by a public water utility system, water supply shall be from individual wells or a private community water system.
  - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
    - 1) Wells shall not be constructed within 75 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and imposed as a restriction on the deed of any affected lots.
  - b. Lots shall be designed so as to permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas, if required, in compliance with the *Maine Subsurface Wastewater Disposal Rules* (10-144 C.M.R. 241) and the *Well Drillers and Pump Installers Rules* (10-144 C.M.R. 232).
  - c. If a central water supply system is provided by the applicant, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the *Maine Rules Relating to Drinking Water* (10-144A C.M.R. 231).
  - d. For major subdivisions, the applicant shall provide adequate water storage facilities for fire protection.
    - 1) Facilities may be ponds with dry hydrants, underground storage reservoirs, or other methods acceptable to the fire chief.
    - 2) A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water utility, and sufficient additional 10,000-gallon storage facilities shall be provided to ensure that every building envelope is within 1,000 feet of a storage facility. The Board may require additional storage capacity upon a recommendation from the fire chief.
    - 3) Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality granting access to dry hydrants or reservoirs.
    - 4) Designs for hydrants and other provisions for drafting water shall be submitted to the Bowdoin Fire Department for review and approval.

Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.

- 5) The lot owners' association shall be responsible for the timely repair and replacement of water storage facilities.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water* (10-144A C.M.R. 231). If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a note on the plan to be recorded in the Sagadahoc County Registry of Deeds.

**10.3 Erosion and Sedimentation and Impact on Water Bodies**

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

**10.4 Sewage Disposal**

A. Private Systems.

1. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the *Maine Subsurface Wastewater Disposal Rules* (10-144 C.M.R. 241).
  - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to fit a disposal area on soils which meet the Disposal Rules.
  - b. In no instance shall a disposal area be on a site which requires a New System Variance from the *Maine Subsurface Wastewater Disposal Rules*.

**10.5 Solid Waste**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

**10.6 Impacts on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, and Public Access to the Shoreline.**

**A. Protection of Natural and Cultural Features and Determination of Net Residential Area**

This article addresses the protection of natural features and determination of net residential area. Such protection may include the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited as a condition of approval.

**1. Natural Features**

Existing features which are important to the natural, scenic, and historic character of the Town or which add value to development, such as large trees, watercourses, scenic views, archaeological resources, stone walls, and similar valuable assets shall be mapped on all subdivision plans. Such features shall be preserved, as much as is practicable, in the design of developments. The Planning Board may require easements, deed restrictions, covenants, or other mechanisms for the protection of such features, which shall be described on the Final Plan.

**2. Net Residential Area**

The net residential area is the portion of a parcel subject to subdivision review that is used in the determination of allowable density. The Net Residential Area is calculated by subtracting from the parcel the full area of land that:

- a. Includes slopes of more than 25% and covers more than 5,000 contiguous square feet;
- b. Is located below the upland edge of any wetland (including wetlands mapped as significant wildlife habitat, such as vernal pools and waterfowl and wading bird habitat);
- c. Is located below the high water line of any protected resource, such as streams and water bodies, as is indicated by signs of seasonal or periodic inundation such as debris lines, water staining, changes in vegetation character, and changes to soil characteristics that indicate periodic flooding or scouring;
- d. Is located within any existing or proposed, public or private street or right-of-way;
- e. Contains habitat, whether or not mapped, for species appearing on the official State or Federal lists of endangered or threatened species where there has been evidence of the species' occurrence;
- f. Contains any of the following, whether or not mapped, as defined by the Department of Inland Fisheries and Wildlife *Significant Wildlife Habitat* rules (09-137 C.M.R. 10):
  - 1) High and moderate value deer wintering areas and travel corridors; or
  - 2) High and moderate value waterfowl and wading bird habitat, including nesting and feeding areas;
- g. Contains significant vernal pools.

Some of the habitat areas listed above may be shown on Inland Fisheries and Wildlife Beginning with Habitat maps for the town of Bowdoin.<sup>1</sup>

<sup>1</sup> Beginning with Habitat maps are periodically updated to depict changes in statewide resource data sets. Inland Fisheries and Wildlife's Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)) should be contacted for the most current version of the map.

B. Preservation of Natural Beauty and Aesthetics

1. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees for development to those areas designated on the plan. These limitations will not be construed to limit appropriate forest management or clearing for solar access.
2. The subdivision shall be designed to minimize the visibility of buildings from existing public roads. A subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways, utilities, and streets.
3. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. In all cases, tree plantings shall be native species and shall not be listed as an invasive species by the *Invasive Plant Atlas of New England*, 2003<sup>2</sup>. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted every fifty feet or less along the subdivision street. Plantings shall be maintained and replaced as needed by the lot owners' association.

C. Retention of Open Spaces and Historic Features.

1. If any portion of the subdivision is designated as a site of historic or prehistoric importance by the *Town of Bowdoin Comprehensive Plan*, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. The Board shall consider the advice of the Maine Historic Preservation Commission in reviewing such plans.
2. A portion of any new subdivision with more than four lots or units must be set aside within the development and permanently protected as open space to serve the residents of the subdivision. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space must include an area of usable land that is at least five percent (5%) of the Net Residential Area of the parcel. (For example, if the Net Residential Area of the parcel is twenty acres, then at least 5% or one acre of the open space must be usable land.) The required open space within the subdivision may be used for the following types of uses: formal open spaces such as greens, commons, and parks; passive recreation areas; natural resource or conservation areas.
3. Reserved land may be dedicated to the municipality subject to acceptance by the town.
4. A payment in lieu of open space reservation may be substituted if the applicant can demonstrate to the Planning Board's satisfaction that existing public recreation areas are adjacent and legally accessible. Payments in lieu of open space shall be \$250/lot and shall be deposited into a municipal fund. This fund, administered by the town, shall be used for acquisition of open space, outdoor recreation facility acquisition and development, or the improvement of existing municipal recreational facilities.

<sup>2</sup> The Invasive Plant Atlas of New England can be viewed online at [www.ipane.org](http://www.ipane.org).

D. Protection of Natural Features, Significant Wildlife Habitat, and Important Habitat Areas.

1. If any portion of the subdivision is located within an area designated as a unique natural area by the *Town of Bowdoin Comprehensive Plan* or the Maine Natural Areas Program (MNAP), or is identified on the map of "*High Value Plant and Animal Habitats in the Town of Bowdoin*"<sup>3</sup>, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation. The applicant must consult with the Beginning with Habitat program in developing these measures and provide BWH's written comments to the Board. The Board may require a report to be submitted by a professional with demonstrated experience in unique natural areas. This report shall assess the potential impact of the subdivision on the natural areas and shall describe appropriate mitigation measures (including efforts to design the project in a manner that avoids unnecessary impacts and minimizes unavoidable impacts) to ensure that the subdivision will have no undue adverse impacts on unique natural areas.
2. If any portion of a proposed subdivision lies within 250 feet of areas identified and mapped by the Department of Inland Fisheries and Wildlife<sup>4</sup> or the *Town of Bowdoin Comprehensive Plan* as the following:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - c. Areas identified and mapped as high or moderate value deer wintering areas or travel corridors;
  - d. Other important habitat areas identified in the *Town of Bowdoin Comprehensive Plan* or by the Department of Inland Fisheries and Wildlife; the applicant shall demonstrate that there will be no undue adverse impacts on the habitat and species it supports. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist (approved by the Board) who has demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas except as provided for in an approved management plan.

---

<sup>3</sup> This map is published by Inland Fisheries and Wildlife's Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)). It is periodically updated to depict changes in statewide resource data sets. Inland Fisheries and Wildlife's Beginning with Habitat program should be contacted for the most current version of the map.

<sup>4</sup> Many of these areas are depicted on the map of "*High Value Plant and Animal Habitats in the Town of Bowdoin*," published by Inland Fisheries and Wildlife's Beginning with Habitat program ([www.beginningwithhabitat.org](http://www.beginningwithhabitat.org)).

3. If any portion of a proposed subdivision lies within 250 feet of a wetland, including significant vernal pools, the applicant shall demonstrate that there will be no adverse impacts on the wetland and its functions. The subdivision shall be designed and built in accordance with best management practices outlined in *Forestry Habitat Management Guidelines for Vernal Pool Wildlife* (Calhoun, A.J.K. and P. deMaynadier, 2004) and *Best Development Practices: Conserving Pool-Breeding Amphibians in Residential and Commercial Developments in the Northeastern U.S.* (Calhoun, A. and M. Klemens, 2002). There will be no filling or disturbance of wetlands except as allowed by Title 38 M.R.S.A. §480.
- E. Protection of Important Shoreland Areas.
1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or included in the open space with provisions made for continued public access.
  2. All shoreland areas shall comply with the standards of the "Bowdoin Shoreland Zoning Ordinance".
- F. Reservation or Dedication and Maintenance of Common Land, Facilities and Services.
1. All common land, facilities, and property shall be owned by:
    - a. The owners of the lots or dwelling units by means of a lot owners' association;
    - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
    - c. The municipality.
  2. Further subdivision of the common land and its use for purposes other than non-commercial recreation, agriculture, or conservation, except for easements for utilities, is prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
  3. The common land shall be shown on the Final Plan with appropriate notations on the plan to indicate:
    - a. It shall not be used for future building lots; and
    - b. Which portions of the common land, if any, may be proposed for dedication and acceptance by the municipality.
  4. The Final Plan application shall include the information required in Article 10.16 regarding establishment of a lot owners' association to maintain common land.

**10.7 Conformance with Land Use and Other Ordinances.**

The proposed subdivision shall meet all applicable performance standards or design criteria from the "Bowdoin Land Use Ordinance" and other relevant ordinances.

**10.8 Financial and Technical Capacity.**

**A. Financial Capacity.**

The applicant shall demonstrate, with ample evidence, adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this Ordinance. In making the above determinations, the Board shall consider the proposed time frame for construction and the effects of inflation.

**B. Technical Ability.**

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**10.9 Impact on Ground Water Quality or Quantity.**

**A. Ground Water Quality.**

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types.
  - b. The depth to the water table at representative points throughout the subdivision.
  - c. Drainage conditions throughout the subdivision.
  - d. Data on the existing ground water quality and quantity (flow rates), from at least one test well in the subdivision or from existing wells on neighboring properties. This data must have been collected within the most recent five-year period.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. A map showing the location of all subsurface waste water disposal systems and drinking water well exclusion areas within the subdivision and existing facilities within 200 feet of the subdivision boundaries.
2. Projections of ground water quality in any assessment shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the *Primary Drinking Water Standards* (40 CFR Part 141). No subdivision shall increase any contaminant concentration in the ground water to more than the *Secondary Drinking Water Standards* (40 CFR Part 143).
4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water well exclusion areas shall be as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

**B. Ground Water Quantity.**

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.



2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff which creates a corresponding decrease in infiltration of precipitation.

#### **10.10 Floodplain Management**

The following applies to any part of a subdivision that is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the flood hazard area shall be constructed in accordance with the "*Floodplain Management Ordinance for the Town of Bowdoin, Maine*" with their lowest floor, including the basement, at least one foot above the base flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce compliance with the construction requirements and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

#### **10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.**

Freshwater wetlands within the proposed subdivision shall be identified by a wetland scientist who has experience and training in soils and wetland vegetation in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. All rivers, streams, brooks, and significant vernal pools within or abutting the proposed subdivision shall be identified. The wetland scientist's qualifications shall be submitted for review and approval by the Planning Board. Wetland scientists licensed by the State of New Hampshire shall be considered qualified.

#### **10.12 Stormwater Management and Phosphorus Control in Lake Watersheds**

- A. A stormwater management plan, prepared by a professional engineer, shall be designed so that the post-development stormwater runoff does not exceed the pre-development stormwater runoff for the 24-hour duration, 2-, 10-, and 25-year frequency storm events. The stormwater plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices* (2006) by the Maine Department of Environmental Protection. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The plan must include adequate measures for the permanent protection and maintenance of vegetative buffers and all stormwater control devices. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data.
- B. The Board may require review and endorsement of the stormwater plan and calculations by the Androscoggin Valley Soil and Water Conservation District or other appropriate entity.

- C. If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the stormwater plan submitted to DEP.
- D. A stormwater management plan must be submitted for subdivisions within the direct watershed of a Great Pond, containing:
  - 1. Five or more lots or dwelling units created within any five-year period; or
  - 2. Any combination of 800 linear feet of new or upgraded driveways and/or streets.This plan shall meet the phosphorus allocation across the entire subdivision in accordance with the methodology described in the *DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual* (2006).

**10.13 Reserved**

**10.14 Compliance with Timber Harvesting Rules.**

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12 M.R.S.A. §8869, sub-§14. If a violation of these rules has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A. §8868, sub-§ 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

**10.15 Subdivision Access and Street Design.**

The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the "*Road Design Standards of the Town of Bowdoin*" and the access and design standards contained in this Ordinance, whichever is more stringent. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.

**A. General Standards**

All street design plans shall be prepared by a professional engineer. The proposed subdivision shall meet the following general transportation performance standards:

- 1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists, and pedestrians on interior subdivision streets and on access connections to external streets and private ways;
- 2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
- 3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists, and pedestrians on interior subdivision streets and access connections to external streets;
- 4. The subdivision transportation system shall have design standards that are

- compatible with the estimated Average Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision road system shall be appropriate for the topography and natural setting of the proposed subdivision site.

#### B. External Access Standards

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation *Highway Driveway and Entrance Rules* (17-229 C.M.R. 299);
2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation *Rules and Regulations Pertaining to Traffic Movement Permits* (17-229 C.M.R. 305).
3. Accesses to all subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be prepared when requested by the Planning Board.

#### C. Access Control.

1. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. The Planning Board may impose this same restriction on a subdivision on any other public street to promote traffic safety and maintain the rural character of the area. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally, a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
4. The subdivision access, including all radii, must be paved from the edge of external street's pavement to the street right of way or the length of the design vehicle, whichever is greater.
5. Minimum Sight Distance Standards: Streets and other accesses shall be located and designed in profile and grading to provide adequate sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a stationary vehicle with the front of the vehicle a minimum of ten (10) feet behind the pavement or edge of the traveled way, with the height of the eye at 3.5 feet, to the top of an object 4.25 feet above the road surface at the center of the traveled way. A minimum sight distance of ten (10) feet for each mile per hour of the posted speed limit shall be provided. The Planning Board may require a more or less stringent standard for sight distances depending on the condition of the road, the volume of traffic, or other circumstances unique to the property. A more or less stringent standard may be allowed or required only if recommended by a traffic engineer.

6. Access and circulation shall conform to the following standards:
  - a. Level of Service (LOS): The street providing access to the subdivision, neighboring streets, and the first intersection(s) which can be expected to carry traffic generated by the subdivision shall either have adequate capacity or shall be suitably improved to accommodate additional traffic so as to avoid unreasonable congestion. Intersections on major access routes to the site which are functioning at a Level of Service C or better prior to the development will function at a minimum of Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service. The Planning Board may approve a subdivision not meeting this requirement if the applicant demonstrates that:
    - 1) A public agency has committed funds to construct improvements necessary to bring or maintain the level of service at this standard, or
    - 2) The applicant will assume the financial responsibility for the improvements necessary to maintain or bring the level of service to the applicable standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town.

D. Internal Subdivision Street Design Standards

All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the "*Road Design Standards of the Town of Bowdoin*," the more stringent rule shall apply.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the Planning Board to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with turn-around or cul-de-sacs unless specifically exempted by the Planning Board and Fire Chief, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. When appropriate, proposed streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.
2. No more than 15 residential lots or dwellings shall be constructed or created on a dead-end street unless there is an emergency second access street to a public through street. Emergency second access roads shall be on rights-of-way that are at least 50 feet wide. Existing 3-rod rights-of-ways shall be acceptable for emergency second road access. The Planning Board may allow a narrower traveled way to mitigate environmental impacts, such as impacts on wetlands, but may not reduce the required traveled way width to less than 12 feet. The emergency second access road must be adequate to allow for snow plowing and emergency access by fire trucks. Gravel may be used as the road surface. The emergency second access street shall be suitable for year-round use, and shall meet or exceed the applicable construction standards (materials and depths) in the "*Road Design Standards of the Town of Bowdoin*." Emergency second access streets shall be plowed and maintained year-round by a lot owners' association or the developer.

3. A dead-end road with only one point of access to a public through street shall not exceed 1,500 feet in linear length including the hammerhead portion of the road. Loop portions of dead-end roads shall not be included for purposes of computing the linear length of the dead-end road when they do not contain residences and serve the sole purpose of reversing traffic direction.
  4. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways, transportation demand management techniques, and traffic controls within existing public streets.
  5. Sidewalks: The Planning Board may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be beneficial. The Board shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.
  6. Street Names, Signs and Lighting: Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the E-911 Officer. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation.
  7. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- E. Street Design and Construction Requirements for Final Plan
1. Upon receipt of plans for a proposed public street the Board shall forward one copy each to the Board of Selectmen, the road commissioner, and the municipal engineer for review and comment. Plans for streets that are not proposed to be accepted by the town shall only be sent to the municipal engineer for review and comment.
  2. Where the applicant proposes improvements of existing public streets, the proposed design and construction details shall be approved in writing by the municipal engineer or the Maine Department of Transportation, as appropriate.
  3. The following words shall appear on the recorded plan: *"Roads shown on this plan shall be maintained by a lot owners' association or the developer. The Town of Bowdoin has no legal authority or legal responsibility to maintain private roads."*

**10.16 Lot Owners' Association**

- A. The applicant must incorporate a lot owners' association consisting of all individual lot owners if the subdivision includes private roads, land, or facilities to be held in common. Each lot owner shall own an equal fractional interest in the road, facilities, and common land and shall be responsible for an equal amount for maintenance and other costs. A maintenance agreement shall be provided to ensure the continued maintenance of private roads and other commonly owned facilities in good condition. The Final Plan application shall include:

ARTICLE 14 - PERFORMANCE & DESIGN STANDARDS

1. Proposed deed covenants, which shall be placed in each deed from the developer to the individual lot owner. These covenants shall require mandatory membership in the lot owners' association and shall set forth the owner's rights, interest, privileges, and obligations in the association, the road, and common properties and facilities.
  2. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit association;
  3. Draft bylaws of the proposed lot owners' association, specifying the responsibility and authority of the association, the operating procedures of the association, and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of roads, common property and facilities.
- B. In combination, the documents referenced in Article 10.16.A shall provide for the following:
1. The lot owners' association shall have the responsibility of maintaining the roads, common property, and facilities.
  2. The lot owners' association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of roads, common property, and facilities and tax assessments.
  3. The applicant shall maintain control of the roads, common property, and facilities, and be responsible for its maintenance until 75% of the residential lots in the subdivision have been sold, at which time the lot owners' association shall be responsible for such maintenance. This obligation shall be described in the deed covenant or by some other legal instrument made binding on the lot owner and running with the land.
- C. All proposed deed covenants and other legal documents pertaining to the lot owners' association may be reviewed by the Town Attorney and, if approved by the Planning Board, shall be recorded in the Sagadahoc County Registry of Deeds, and included in the deed to each lot.
- D. All legal documents required under this subsection must be submitted with the Final Plan application.

## ARTICLE 11 - PERFORMANCE GUARANTEES

### 11.1 *Types of Guarantees.*

With submission of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town of Bowdoin or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account; or
- B. A performance bond payable to the Town of Bowdoin issued by a surety company, approved by the Board of Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town of Bowdoin may draw if construction is inadequate or not completed, approved by the Board of Selectmen.

The conditions and the amount of the performance guarantee shall be determined by the Board with the advice of a consulting engineer, the Board of Selectmen, and/or the Town attorney.

### 11.2 *Contents of Guarantee.*

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer following approval by the Board, and a date after which the applicant will be in default and the Town shall have access to the funds to finish construction.

### 11.3 *Escrow Account.*

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Bowdoin, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the Town of Bowdoin shall be named as owner or co-owner, and the consent of the Board of Selectmen shall be required for a withdrawal. Any funds remaining in the escrow account at the completion of the project shall be returned to the applicant within 45 days. For purposes of this article, completion of the project shall mean the project has been inspected and the Board has determined that it is complete.

### 11.4 *Performance Bond.*

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### 11.5 *Letter of Credit.*

An irrevocable letter of credit from a bank or other lending institution with offices in the region shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

**11.6 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of a consulting engineer or other qualified individual retained by the Town and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

**11.7 Default.**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the Board of Selectmen, the Planning Board, and the applicant. The Planning Board and Board of Selectmen shall take any steps necessary to preserve the Town's rights.

**11.8 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of this Ordinance and for the construction of streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.



## ARTICLE 12 - WAIVERS

### 12.1 *Waivers of Certain Submission Requirements Authorized.*

Except as prohibited by this Ordinance or Maine statutes, the Board may waive portions of the submission requirements under the following circumstances:

- A. The applicant has demonstrated that the performance standards of this Ordinance and the criteria of the subdivision statute have been or will be met;
- B. The applicant has demonstrated that the public health, safety, and welfare are protected;
- C. The applicant has demonstrated that the waivers do not have the effect of nullifying the intent and purpose of the *Town of Bowdoin Comprehensive Plan*, this Ordinance, and other ordinances adopted by the town; and
- D. The Board finds that there are special circumstances regarding the particular parcel proposed to be subdivided, or that the application is simple and minor in nature.

The Board shall make written findings of fact establishing that the above criteria were met.

### 12.2 *Waivers of Certain Improvements Authorized.*

Except as prohibited by this Ordinance or Maine statutes, the Board may waive the requirement for certain improvements subject to appropriate conditions under the following circumstances:

- A. The applicant has demonstrated that the performance standards of this Ordinance and the criteria of the subdivision statute have been or will be met;
- B. The applicant has demonstrated that certain required improvements are not requisite to provide for the public health, safety, and welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent or in proximity to the proposed subdivision;
- C. The applicant has demonstrated that the waivers do not have the effect of nullifying the intent and purpose of the *Town of Bowdoin Comprehensive Plan*, this Ordinance, and other ordinances adopted by the town; and
- D. The Board finds that there are special circumstances regarding the particular parcel proposed to be subdivided.

The Board shall make written findings of fact establishing that the above criteria were met.

### 12.3 *Waiver of Procedural Steps*

The Board may allow an applicant to combine the Preliminary Plan and Final Plan application steps into one procedure under the following circumstances:

- A. No new streets are proposed;
- B. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;" and

ARTICLE 12 - WAIVERS

- C. The application contains all other applicable submissions required for both the preliminary and Final Plan steps, except for those items for which a waiver of a required submission or improvement has been requested and granted.

The Board shall make written findings of fact establishing that the above criteria were met.

**12.4 Conditions for Waivers.**

When granting waivers, the Board may set conditions to ensure that the purposes of this Ordinance are met.

**12.5 Timing of Waiver Requests**

Waivers must be requested in the Preliminary Plan application. Waivers may not be requested following the public hearing on the Preliminary Plan unless an additional public hearing is held to accept comment on the requests prior to approval of the Preliminary Plan.

**12.6 Final Determination and Granting of Waivers**

The Planning Board will take testimony at the public hearing on the Preliminary Plan on whether waivers requested by the applicant should be granted or denied. The Planning Board will make its final determination on the granting of waivers in writing prior to approval of the Preliminary Plan. If waivers of submission requirements are denied, those submission requirements must be included in the Final Plan application.

**12.7 Waivers Shall Be Shown on Final Plan.**

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

ARTICLE 13 - APPEALS

13.1 *Appeals.*

Notwithstanding any ordinance to the contrary, an aggrieved party may appeal any decision under this Ordinance to the Sagadahoc County Superior Court within 45 days of the date on which the Planning Board issues a written decision. This article is intended to create an exception to the provisions of Section II(E)(ii) of the "Land Use Ordinance," but only with respect to appeals from actions of the Planning Board regarding subdivision issues.

A True Copy  
Attested:  
Melanie R. Page  
March 7, 2009