

## SECTION 9. THE BASIC SITE PLAN REVIEW SYSTEM

This section sets forth the provisions of a basic **site plan review** system. These provisions are appropriate for many small communities with a limited amount of nonresidential development activity. The basic system includes:

- a single set of standards and procedures for all projects requiring **site plan review**
- designating the Planning Board as the review body for site plans
- basic review standards dealing with public safety, health, and environmental factors

The following subsections address the components needed to compile a complete set of **site plan review** provisions. In the left-hand column is a discussion of the issues and the reasons for including specific provisions. In the right-hand column is the model ordinance language for that provision. In many cases, you will need to decide what to include to create a **site plan review** system that is appropriate for your community. Requirements that should be included in all ordinances are prechecked in the box in the upper left corner of the model ordinance language.

### A. Purpose and Applicability Provisions

*Discussion*

*Model Ordinance Provisions*

#### A. *The Purpose Statement*

*The site plan review provisions should include a purpose section which sets out what community objectives will be achieved through site plan review. The language should clearly relate the site plan review process to the protection of the public's health and safety, to the promotion of the general welfare of the community, and to the policies of the Town as expressed in the Comprehensive Plan. If the ordinance or a decision of the review body is legally challenged, the courts may look to the purpose section for guidance to learn what the site plan provisions were expected to address.*

**“PURPOSE**

The site plan review provisions set forth in this [ordinance] [section] are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential [and multifamily] construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into

*Discussion*

*Model Ordinance Provisions*

the fabric of the community.”

***B. Applicability Provisions***

*This portion of the site plan review provisions specifies what types of activities are subject to site plan review. The model ordinance provides language for three parts:*

- 1. A preamble,*
- 2. A list of provisions for various types of uses from which the appropriate uses should be chosen,*
- 3. Exclusion provisions.*

*Using these three parts, an appropriate applicability section can be created for your community.*

***1. Preamble***

*This establishes that site plan review is required prior to starting construction or seeking other required permits and should be included in all options.*

**“APPLICABILITY OF SITE PLAN REVIEW**

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:”

*Discussion*

*Model Ordinance Provisions*

**2. Activities to be Covered by Site Plan Review**

*These provisions identify the specific types of activities that will be subject to site plan review. New, expanded, or changed activities that have the potential for impacting neighbors or the community should be subject to review.*

● ***New nonresidential development***

*The following three alternatives deal with the construction of new nonresidential buildings. You should choose the appropriate one for your needs.*

*The first alternative includes the construction of all new nonresidential buildings under site plan review.*

“(1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures”

-----  
 OR   
 -----

*The second alternative establishes a minimum threshold of 1,000 square feet for new buildings. This threshold can be adjusted to meet local needs. You should determine the appropriate number.*

“(1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of [one thousand (1,000)] square feet or more.”

-----  
 OR   
 -----

*The third alternative establishes a maximum limit so that new buildings that require Department of Environmental Protection approval under the “Site Law” do not require local site plan approval.*

“(1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures but excluding buildings and structures required to obtain a permit from the Board of Environmental Protection under the Site Location of Development Law.”

*Discussion*

- *The enlargement of existing nonresidential buildings or structures*

*These alternative provisions address the expansion of an existing nonresidential building. You should choose one of these.*

*The first alternative requires review of all expansions.*

*The second alternative creates a minimum threshold for the size of an enlargement of an existing building. This can be customized to the local situation. You will need to determine the appropriate size to trigger site plan review.*

*The third alternative exempts expansions of large-scale projects that require State approval under the Site Location of Development Law from local review.*

- *The conversion of an existing residential building to nonresidential use*

*These alternatives cover the conversion of a residential use to nonresidential use. A conversion to nonresidential use often changes the amount of traffic, noise, runoff, and other factors. If you want to cover conversions, you should include one of these. The first alternative requires review of all conversions.*

*Model Ordinance Provisions*

- “(2) The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.”

----- **OR** -----

- “(2) The expansion of an existing nonresidential building or structure, including accessory buildings, if the enlargement increases the total area for all floors within a five-year period by more than [twenty] percent of the existing total floor area or [one thousand (1,000)] square feet, whichever is greater.”

----- **OR** -----

- “(2) The expansion of an existing nonresidential building or structure, including accessory buildings that increases the total floor area, but excluding buildings and structures required to obtain a permit from the Board of Environmental Protection under the Site Location of Development Law.”

- “(3) The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.”

----- **OR** -----

*Discussion*

*The second alternative creates a minimum size threshold for conversions. This can be customized to meet local needs.*

- ***The establishment of nonstructural nonresidential uses***

*This covers nonresidential uses such as a bulk storage facility or outside storage of materials that do not involve buildings or structures. This should be included since these types of uses can have significant impacts.*

- ***Conversion to a new nonresidential use***

*This covers the conversion of a building from one type of nonresidential use (such as office) to another type (such as industrial).*

- ***The construction of multifamily housing***

*This subjects new multifamily housing to site plan review. You should include this if you want to review multifamily residential development under a site plan review procedure instead of under your subdivision review process.*

- ***The expansion of multifamily housing***

*This covers modification of any existing residential building that increases the number of units.*

*Model Ordinance Provisions*

“(3) The conversion of an existing building in which [one thousand (1,000)] or more square feet of total floor area are converted from residential to nonresidential use.”

“(4) The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses.”

“(5) The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in [Section] [paragraph] \_\_\_\_ of this [ordinance] [section].”

“(6) The construction of a residential building containing three (3) or more dwelling units.”

“(7) The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.”

*Discussion*

*Model Ordinance Provisions*

● *Conversion from nonresidential use to multifamily residential use*

*This covers the conversion of a nonresidential building to a multifamily residential use. If you include multifamily housing under site plan review, you should cover conversions as well as new construction.*

“(8) The conversion of an existing nonresidential building or structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.”

● *Construction or expansion of impervious surfaces*

*This covers the construction or expansion of paved or impervious areas. Paving increases the amount of runoff and may create other impacts that should be reviewed. If you decide to include this under site plan review, you need to establish the appropriate threshold so that minor changes don't require review.*

“(9) The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than [two thousand five hundred (2,500)] square feet within any three (3) year period.”

**3. Exemptions**

*This part establishes what activities do not require site plan review.*

“The following activities shall not require site plan approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals:

- (1) The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures,
- (2) The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots,
- (3) Agricultural activities, including agricultural buildings and structures,
- (4) Timber harvesting and forest management activities,
- (5) The establishment and modification of home occupations that do not result in changes to the site or exterior of the building,

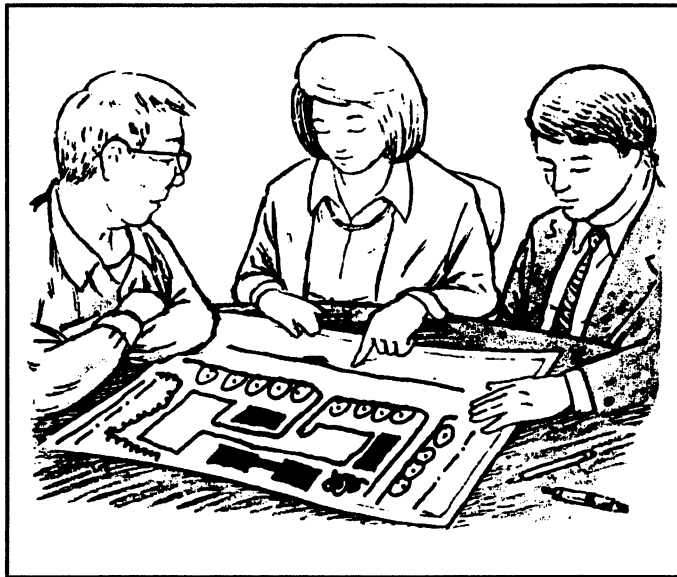
*This item exempts agricultural buildings and structures from site plan review. If you decide to review agricultural buildings, this should be deleted.*

- (6) Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.”

## B. Review and Approval Authority

### Discussion

*This section of the site plan review ordinance establishes the Planning Board as the municipal body that will be responsible for reviewing and acting on site plans.*



### Model Ordinance Provisions

#### “REVIEW AND APPROVAL AUTHORITY

The Planning Board is authorized to review and act on all site plans for development requiring site plan review as defined above.

In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.”

**C. Procedures**

*Discussion*

*This section establishes the procedures for reviewing site plans. This provides a review format in which the Planning Board reviews all site plans using the same procedures. Additional options are included in Section 10.*

*This section provides for an optional preapplication conference with the Board prior to the submission of an application.*

*This sets forth the reasons for having a preapplication meeting to assure that the Board and the applicant have the same expectations.*

*Model Ordinance Provisions*

**“REVIEW PROCEDURES**

The Planning Board shall use the following procedures in reviewing applications for site plan review.

**1. Preapplication**

Prior to submitting a formal application, the applicant or his/her representative may request a preapplication conference with the Planning Board. A preapplication conference is strongly advised. The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication review, and such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made at the preapplication conference.

**1.1 Purpose**

The purposes of the preapplication conference are to:

- (1) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- (2) Allow the applicant to understand the development review process and required submissions,
- (3) Identify issues that need to be addressed in future submissions, and



**Discussion**

*This allows the Board to schedule a site walk at the preapplication conference and act on waiver requests.*

*This establishes what the applicant should have available to allow for a meaningful discussion of the project.*

*This section sets out the process that will be used in reviewing the application.*

*This part provides for notice to abutters of the pending application. Customize this to match local practice. For example, a staff person such as the Code Enforcement Officer could be delegated the responsibility for review applications for completeness.*

**Model Ordinance Provisions**

- (4) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

In addition, the Board may schedule a site inspection in accordance with subsection 2(5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

**1.2 Information Required**

There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Board:

- (1) The proposed site, including its location, size, and general characteristics,
- (2) The nature of the proposed use and potential development,
- (3) Any issues or questions about existing municipal regulations and their applicability to the project, and
- (4) Any requests for waivers from the submission requirements.

**2. Application Submission and Review Procedures**

The applicant shall prepare and submit a site plan review application, including the development plan and supporting documentation, that meets the submission requirements set forth below. This material shall be submitted to the Chair of the Planning Board.

- (1) At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant and shall notify by first-class mail all property owners within [five hundred (500)] feet of the parcel on which the proposed development is located. Written notice of the pending application shall

*Discussion*

*The officials to be notified need to be customized to reflect local staffing. This assures that all departments that may be impacted by the proposal are aware of the application.*

*This requires that the Board have a complete application prior to starting the review. This is important. If all of the needed information has not been provided, review does not begin and the applicant is advised to submit the additional information.*

*This notification function can be delegated to a staff person if appropriate.*

*This provides for notice of the meeting at which the application is considered by the Board.*

*This provision allows the Board to hold a site walk, addresses situations where snow cover makes a meaningful site walk impractical, and provides for notification of interested parties.*

*Model Ordinance Provisions*

be mailed to the [Selectmen, Town Manager, Fire Chief, Police Chief, Road Commissioner, Building Inspector, Plumbing Inspector], and other interested parties.

- (2) Within thirty (30) days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
- (3) As soon as the Board determines that the application is complete, the Board shall: notify the applicant in writing of this finding, meet the notification requirements of subsection (4) below, and place the item on the agenda for substantive review within thirty (30) days of this finding.
- (4) The Planning Board shall give written notice of the date, time, and place of the meeting at which the application will be considered to the applicant and all persons who received the notice in (1).
- (5) The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall taken final action on the application as specified in (6) may be extended, which extension shall not exceed [thirty (30)] days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (4).

**Discussion**

*This establishes a 30 day period for review. You may want to modify this. It is important to keep the review period as short as possible while allowing for a thorough review.*

*This requires the Board to make "findings" when acting on the application, to put those findings in writing, and to notify people involved in the process of its decision. Having written findings of fact is important if there ever is any question as to what the Board approved or if there is a lawsuit.*

*This provides that the approved plan be signed and permanently filed with the Code Enforcement Officer. Recognizing how difficult it is to maintain a good local filing system, some towns may want someone else to be the repository for approved plans. Some communities require approved plans to be recorded in the Registry of Deeds. While providing an alternative to a good, local storage system, the municipality should consider that the requirement may be met with resistance by the Registry and unnecessarily increase the cost of development.*

**Model Ordinance Provisions**

- (6) The Planning Board shall take final action on said application within [thirty (30)] days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, all officials who received notice under (1), and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

**3. Final Approval and Filing**

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the [Code Enforcement Officer]. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board shall become null and void. [In addition, the signed plan shall be recorded in the \_\_\_\_\_ Registry of Deeds within thirty (30) days of the vote to approve the plan.] The Planning Board, by vote, may extend the filing period for good cause.

*Discussion*

*This section requires the applicant to pay an appropriate application fee and a review fee to cover the costs of outside review.*

*The technical review fee is designed to allow the Board to “buy” needed technical review services.*

*This sets up procedures for using, accounting for, and returning unused portions of the technical review fee.*

*Model Ordinance Provisions*

**4. Fees**

**4.1 Application Fee**

An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of the municipality’s administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee shall be paid to the municipality, and evidence of payment of the fee shall be included with the application.

**4.2 Technical Review Fee**

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality’s legal and technical costs of the application review. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies

*Discussion*

*This allows the Municipal Officers to establish the site plan review fees. These fees should be tied to the scale and complexity of the project and the potential need for outside review services. It is important that fees be established once site plan review is put into place. Some communities establish the application fee as a set amount such as \$25-\$50 for a minor site plan and \$200-\$400 for a major site plan, some have a basic fee such as \$50-\$100 and then require the applicant to pay the actual cost for engineering review, and others have a sliding fee scale tied to the size of the project such as \$0.05 per square foot of gross floor area or \$50 per 25,000 square feet of lot area.*

*Model Ordinance Provisions*

in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

**4.3 Establishment of Fees**

The Municipal Officers may, from time to time and after consultation with the Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.”

## D. Submission Requirements

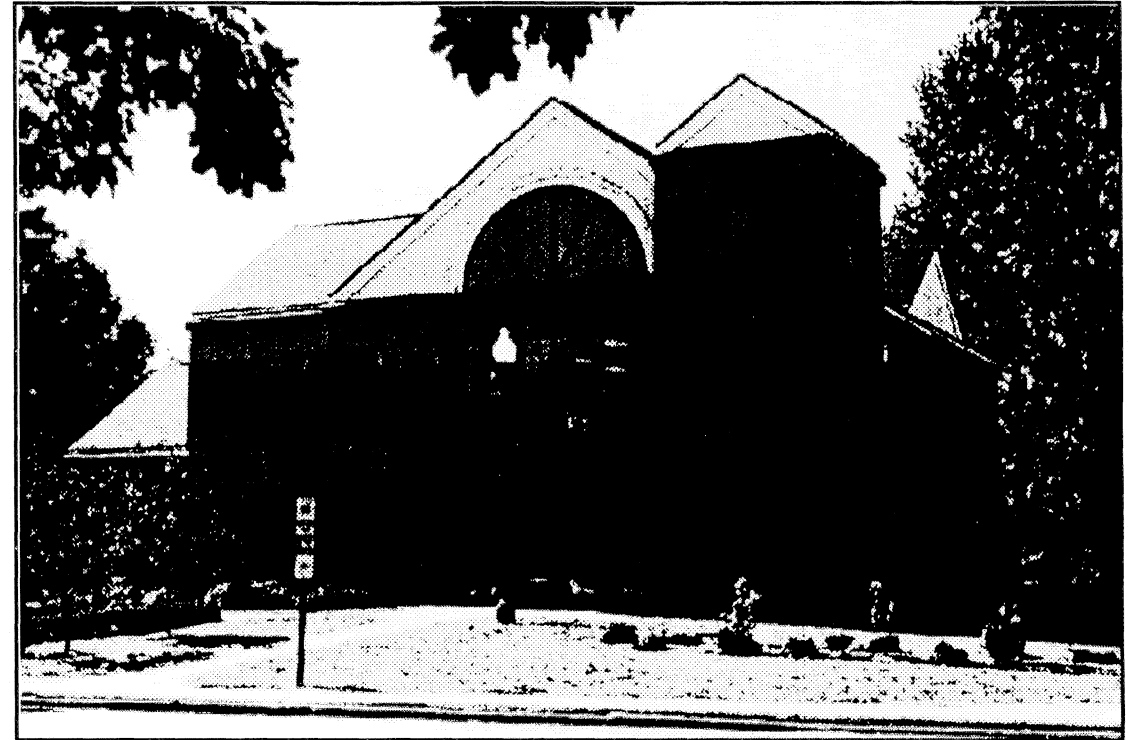
For the municipal review body to conduct a meaningful review of a site plan, the applicant must provide information about the site, the proposed development activity, and its potential impacts. This section establishes the information that an applicant should be required to submit.

Included in this section is a basic set of requirements designed for a community using a single level review process.

An alternative is included in Section 10 that establishes separate submission requirements for minor developments and major developments for a community that has chosen a bilevel review process.

A note of caution is in order. It is important that the submission requirements be coordinated with the standards section. If you establish a standard for, say, lighting, your submission requirements will need to have the applicant provide information about proposed site lighting. If, however, you do not include a standard for lighting, you should not require the applicant to submit information about lighting.

Once you complete the standards section of your ordinance, you should review the submission requirements to assure that everything is addressed but that no unnecessary information is requested.



*Discussion*

*Model Ordinance Provisions*

*An alternative to submitting the application to the Board is for the application to be submitted to the Code Enforcement Officer or other staff person. If the Town has staff that are available at the municipal office, having the application submitted to them may be preferable.*

**“SUBMISSION REQUIREMENTS**

Applications for site plan review must be submitted on application forms provided by the municipality. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the [Chair of the Planning Board] [Code Enforcement Officer]. The submission must contain at

*Discussion*

*Model Ordinance Provisions*

*You should determine the number of copies you will need and adjust this submission requirement.*

*In other words, a scale of less than 1" = 100' is acceptable, such as 1" = 60' or 1" = 40'; in fact, those bigger scales are preferable.*

*This requires the applicant to provide basic information about the site.*

least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

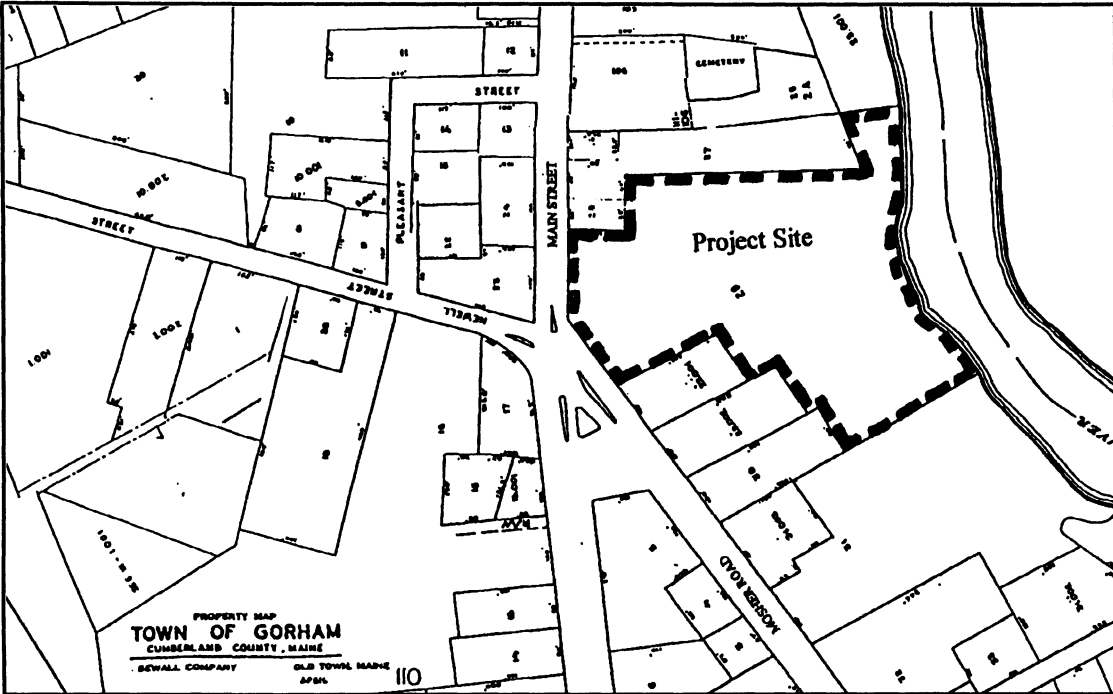
All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application and technical review fees.
- (3) [Eight (8)] copies of written materials plus [eight (8)] sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawing must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

**1. General Information**

- (1) record owner's name, address, and phone number and applicant's name, address and phone number if different
- (2) the location of all required building setbacks, yards, and buffers

*Discussion*



Sample Location Sketch Map

*The applicant should be required to show that he/she has a legal interest in the property.*

*Evidence of technical capability might include documentation that the applicant has retained qualified contractors and consultants to supervise, construct, and inspect improvements in the proposed development. Evidence of financial capability should demonstrate that the applicant has adequate financial resources to construct the proposed improvements and meet the standards of the Ordinance. Evidence could*

*Model Ordinance Provisions*

- (3) names and addresses of all property owners within five hundred (500) feet of any and all property boundaries
- (4) sketch map showing general location of the site within the municipality based upon a reduction of the tax maps
- (5) boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time
- (6) the tax map and lot number of the parcel or parcels on which the project is located
- (7) a copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant
- (8) the name, registration number, and seal of the person who prepared the plan, if applicable
- (9) evidence of the applicant's technical and financial capability to carry out the project as proposed



*Discussion*

*Model Ordinance Provisions*

*include a letter from a financing institution regarding a loan, letter of credit, or bank account or a certified accountant's or annual report indicating adequate cash flow to cover anticipated expenses.*

*The information submitted should provide the reviewers with a good understanding of the existing conditions on the site and any limitations for its use and development.*

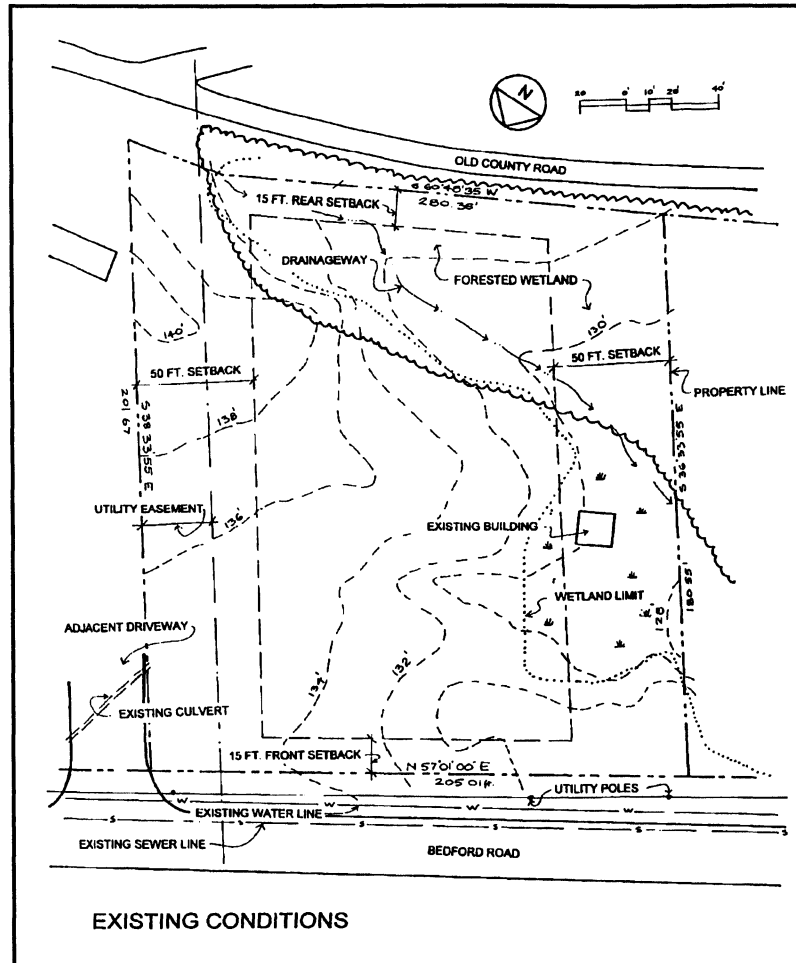
*This should be included even if you only have Shoreland Zoning.*

*It is important that the applicant and review body know where the property lines are.*

**2. Existing Conditions**

- (1) zoning classification(s), including overlay and/or subdistricts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or subdistricts or abuts a different district.
- (2) the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- (3) location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
- (4) location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- (5) the location, dimensions and ground floor elevation of all existing buildings on the site.
- (6) the location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- (7) location of intersecting roads or driveways within two hundred (200) feet of the

*Discussion*



*The site plan and supporting materials must provide a complete picture of what changes will be made on the site and how they will be carried out.*

*The information about the development proposal should be of a preliminary nature, not detailed construction plans.*

*Model Ordinance Provisions*

site.

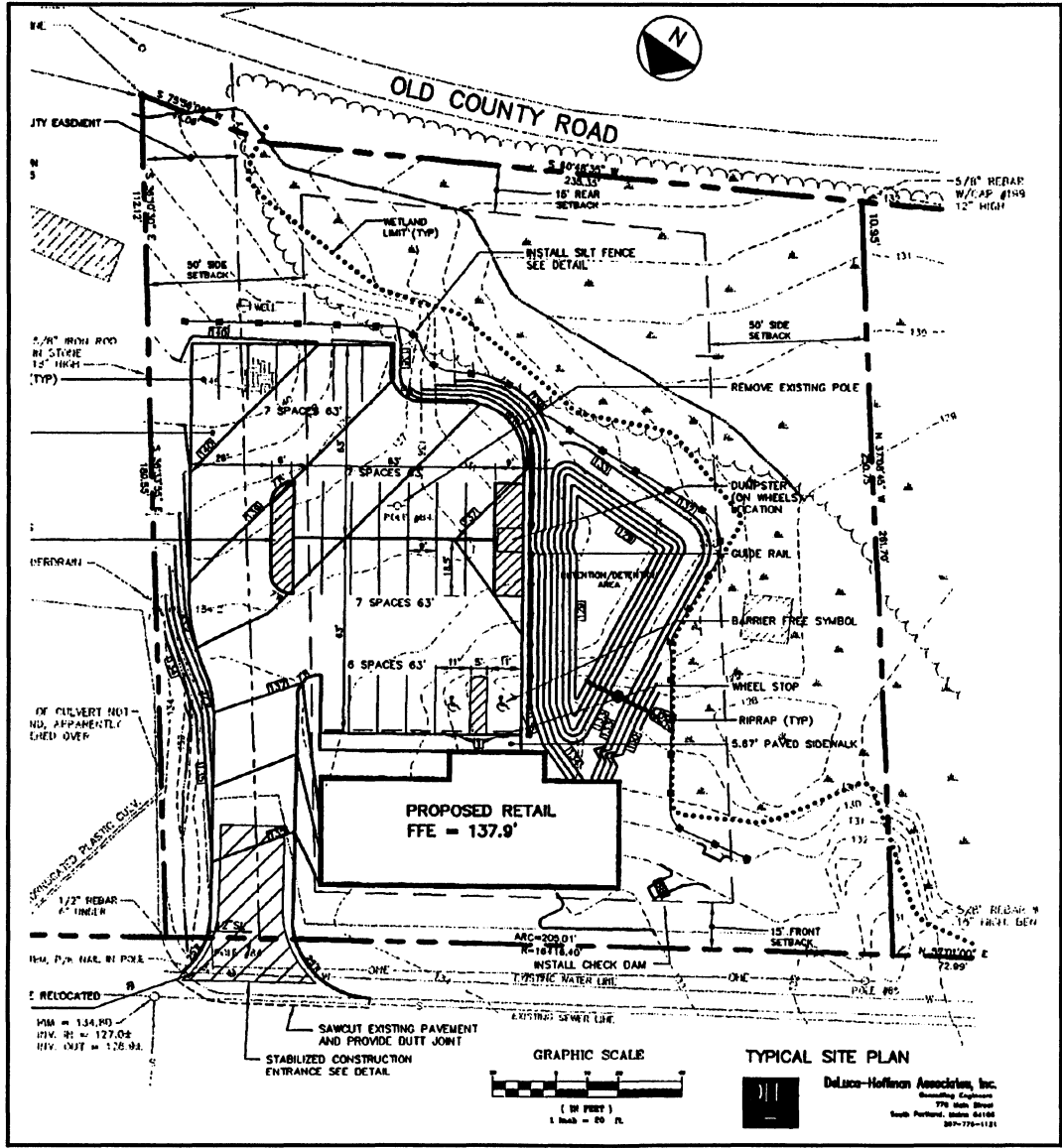
- (8) the location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
- (9) the direction of existing surface water drainage across the site.
- (10) the location, front view, dimensions, and lighting of existing signs.
- (11) location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- (12) the location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

**3. Proposed Development Activity**

- (1) estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-

*Discussion*

*Model Ordinance Provisions*



site sewage disposal is proposed.

- (2) the direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- (3) provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- (4) the location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- (5) proposed landscaping and buffering.
- (6) the location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- (7) location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- (8) location and type of exterior lighting.
- (9) the location of all utilities, including fire protection systems.
- (10) a general description of the proposed use or activity.
- (11) an estimate of the peak hour and daily traffic to be generated by the project.
- (12) stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or

*Discussion*

*Model Ordinance Provisions*

if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

**4. Approval Block**

Space must be provided on the plan drawing for the signatures of the Planning Board and date together with the following words, "Approved: [City] [Town] of [name of City or Town] Planning Board."

## E. Standards and Criteria

The core of the site plan review provisions is the standards section. These standards and criteria establish the specific language which the Planning Board must use to evaluate a project. The standards spell out the community's expectations for new nonresidential development or multifamily housing.

This section sets out basic standards that address issues relating to **public safety, health and environmental** concerns.

Section 11 includes additional standards relating to **“good neighbor”** and **visual and design** concerns.

For a number of these standards, alternative standards are provided. As you craft your provisions, select only the standards you want to include in your site plan review system.



*Discussion*

*Model Ordinance Provisions*

### ● Preamble

*In order to be approved, a proposed development must comply with these standards. You should include this language in your ordinance regardless of which option you have chosen.*

### “APPROVAL STANDARDS AND CRITERIA

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

*Discussion*

*Model Ordinance Provisions*

*This standard assures that the overall use of the site is compatible with the natural features of the site.*

*This standard assures that roads providing access to the site are adequate.*

*This alternate standard provides specific criteria with which to judge the adequacy of access to the site. The numbers used (100 trips, 1 mile, etc.) may be adjusted to meet local conditions.*

**1. Utilization of the Site**

**“Utilization of the Site** - The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.”

**2. Traffic Access and Parking**

**“Adequacy of Road System** - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development.”

----- **OR** -----

**“Adequacy of Road System** - Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate [one hundred (100)] or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within [one (1) mile] of any entrance road which are functioning at a Level of Service of D or better prior to the development must function at a minimum at Level of Service D after development. If any such intersection is functioning at

*Discussion*

*Model Ordinance Provisions*

a Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the [Town's] [City's] adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

A development not meeting this requirement may be approved if the applicant demonstrates that:

- (1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- (2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality."

*This standard assures that vehicles can safely enter and exit from the site.*

"Access into the Site - Vehicular access to and from the development must be safe and convenient."

----- **OR** -----

*The alternative standard provides detailed criteria for assessing the adequacy of access into the site.*

"Access into the Site - Vehicular access to and from the development must be safe and convenient.

- (1) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.

*Discussion*

*Model Ordinance Provisions*

(3) The grade of any proposed drive or street must be not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

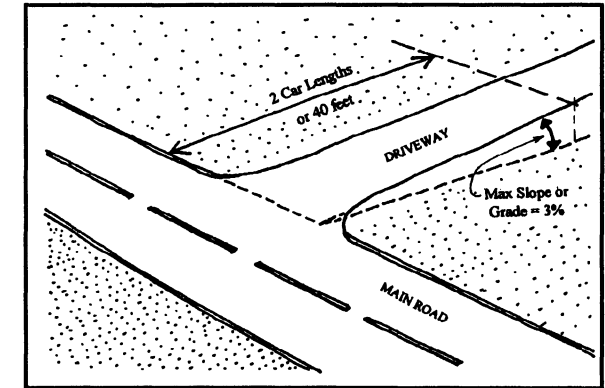
(4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

(5) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.

(6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.

(7) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(8) The following criteria must be used to limit the number of driveways serving





*Discussion*

*Model Ordinance Provisions*

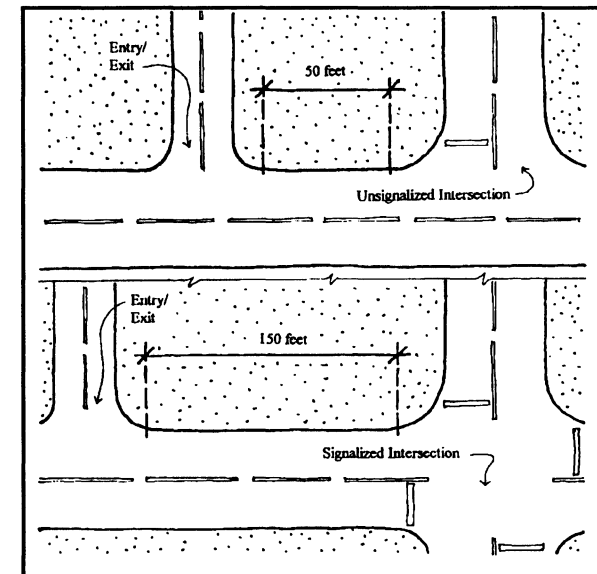
a proposed project:

- a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
- b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.”

*This standard regulates the location of proposed accessways.*

“Accessway Location and Spacing - Accessways must meet the following standards:

- (1) Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.



- (2) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.”

*Discussion*

*This standard assures that vehicles can move safely within the site.*

*This alternative establishes specific criteria for safe site circulation.*

*This allows for a medium sized tractor trailer to turn. A 42 foot turning radius is preferable if the site will have significant delivery traffic.*

*Model Ordinance Provisions*

**“Internal Vehicular Circulation** - The layout of the site must provide for the safe movement of passenger, service and emergency vehicles through the site.”

OR

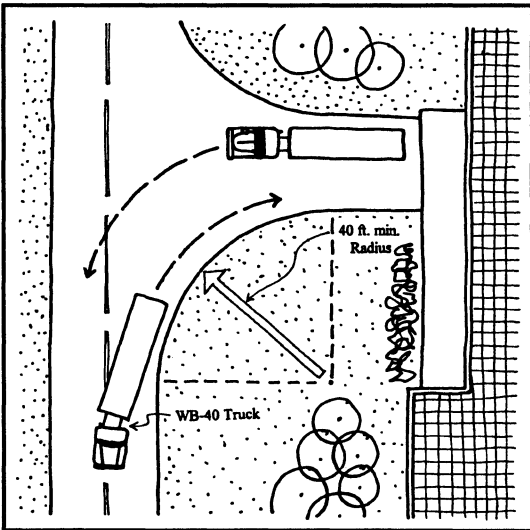
**“Internal Vehicular Circulation** - The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

(1) Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of [WB-40] vehicles.

(2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

(3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

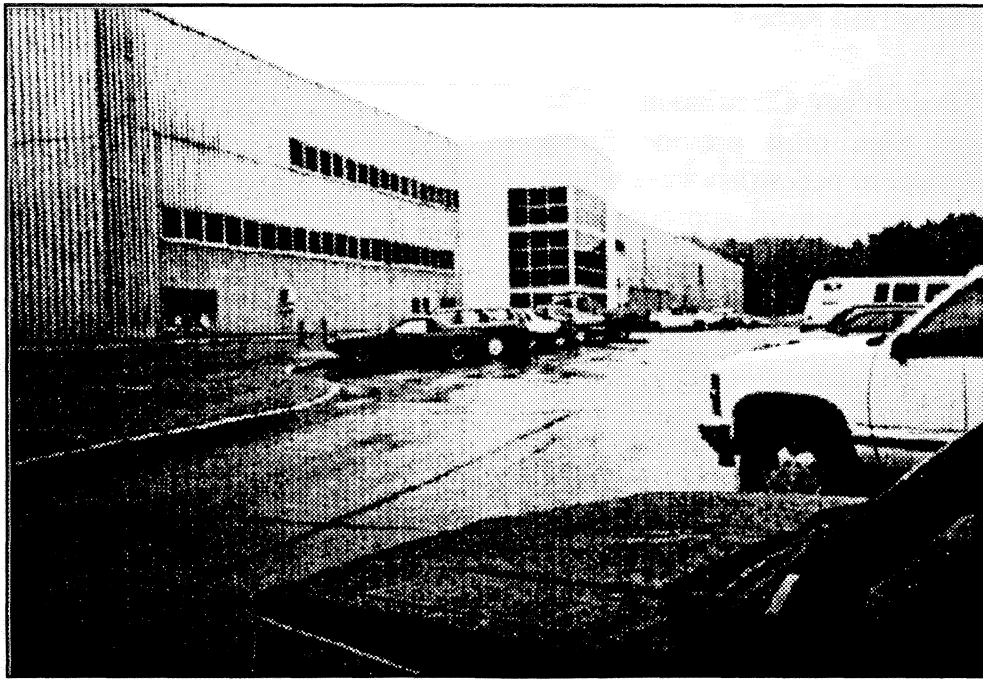
(4) All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular,



*Discussion*

*This standard assures that the parking is laid out in a safe and efficient manner. If the town's zoning ordinance addresses this issue, the standards in the site plan review provisions must be consistent with those requirements or can reference the zoning ordinance.*

*The setback of parking should be adjusted to reflect local conditions.*



*Model Ordinance Provisions*

pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.”

**“Parking Layout and Design** - Off-street parking must conform to the following standards:

- (1) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
- (2) All parking spaces, access drives, and impervious surfaces must be located at least [five (5) feet] from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within [five (5) feet] of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- (3) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width
90°	9'-0"		18'-0"	24'-0" two way
60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

*Discussion*

*The standards can also provide for the joint or shared use of parking by two or more uses when the peak parking demand of the various uses occurs at different times.*

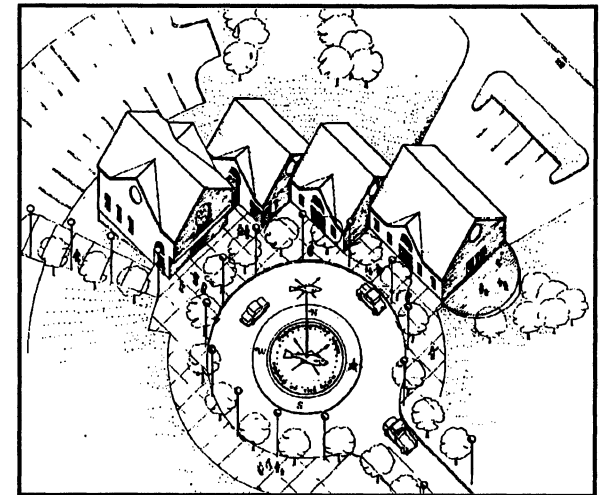
*This standard assures that there are adequate provisions for pedestrian movement to and within the site.*

*Model Ordinance Provisions*

- (4) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- (5) Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- (6) Provisions must be made to restrict the “overhang” of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.”

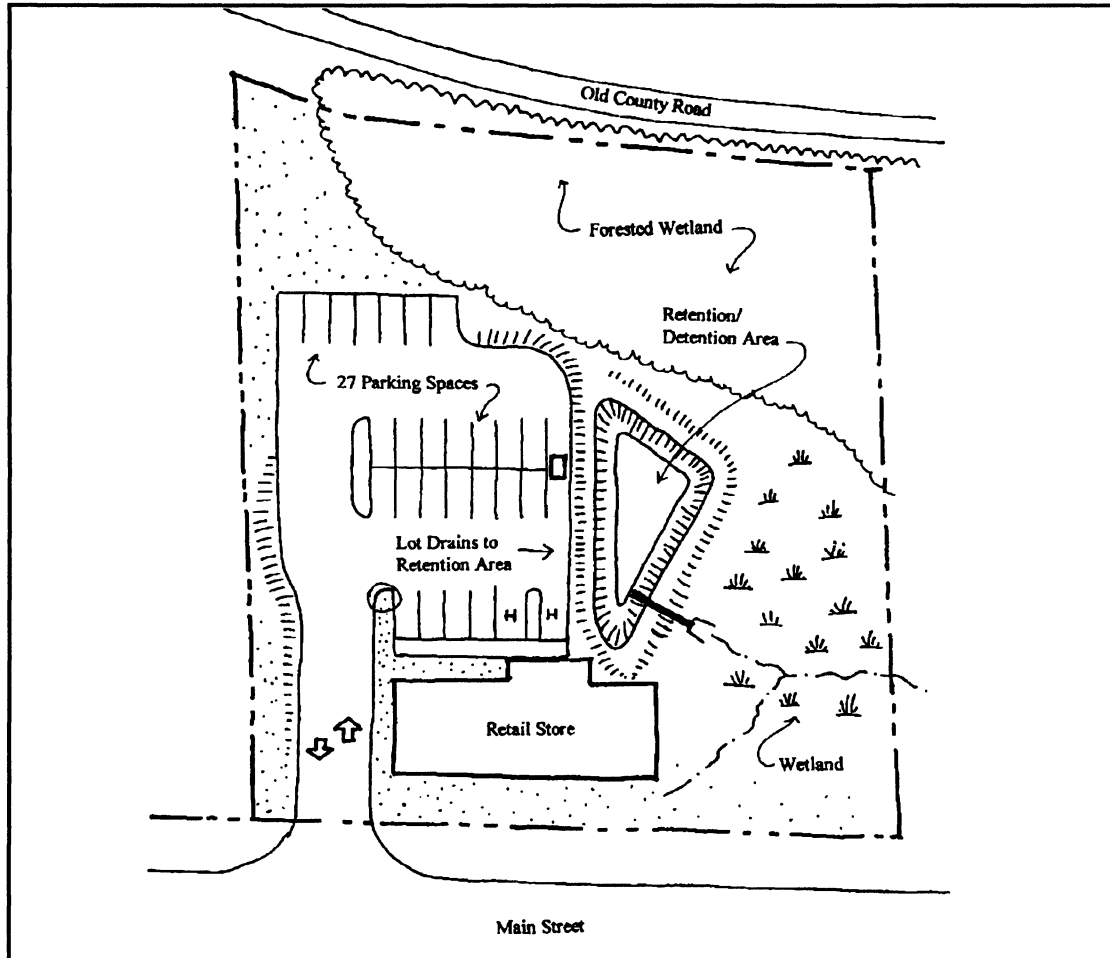
**3. Pedestrian Access**

- “Pedestrian Circulation** - The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools,



*Discussion*

*This standard addresses the handling of stormwater on the site.*



*Model Ordinance Provisions*

bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.”

**4. Stormwater Management**

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

----- **OR** -----

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

- (1) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- (2) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- (3) The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

*Discussion*

*This alternative provides detailed criteria for stormwater management and helps reduce the amount of non-point source pollution. In most situations, all seven items should be included in the ordinance.*

*This standard assures that adequate provisions are made to control erosion and sedimentation.*

*Model Ordinance Provisions*

- (4) All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- (5) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- (6) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.
- (7) The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.”

**5. Erosion Control**

- “Erosion Control** - All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible, such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

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

*Discussion*

*Model Ordinance Provisions*

*This standard assures that there is an adequate supply of water for the use.*

dated March 1991.”

*This standard assures that there are adequate provisions for sewage disposal. If the nonresidential development in the community will utilize individual subsurface sewage disposal (septic systems), this option is adequate. The second option addresses situations where the project may be connected to a public sewer system or to shared or community septic systems.*

**6. Water Supply Provisions**

- “Water Supply** - The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.”

**7. Sewage Disposal Provisions**

- “Sewage Disposal** - The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.”

----- **OR** -----

*Items 1 and 2 deal with connection to a public sewer system. If public sewerage is not available in the community, these items should not be included in the ordinance.*

- “Sewage Disposal** - The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

- (1) All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.

*Discussion*

*Item 5 also deals with discharges to a public sewer and can be deleted if public sewerage is not available. The appropriate sewer district or department will need to be inserted in the blank space.*

*Model Ordinance Provisions*

- (2) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system must occur if and when the subsurface system needs to be replaced.
- (3) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- (4) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.
- (5) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by *[insert the organization responsible for the operation of the sewerage system].*"



*Discussion*

*Model Ordinance Provisions*

*This standard assures that there are adequate provisions for power, telephone, and other telecommunication services.*

**8. Utilities**

**“Utilities** - The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.”

*This standard deals with preserving the natural features of the site.*

**9. Natural Features**

**“Natural Features** - The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.”

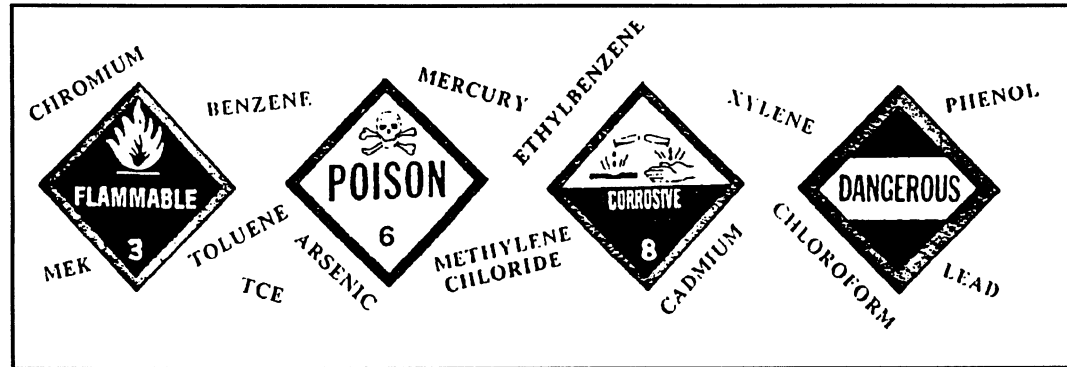
*This standard assures that the quality and quantity of the groundwater will be protected.*

**10. Groundwater Protection**

**“Groundwater Protection** - The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.”

*Discussion*

*This standard addresses activities that are potential threats to groundwater or surface waters.*



*Model Ordinance Provisions*

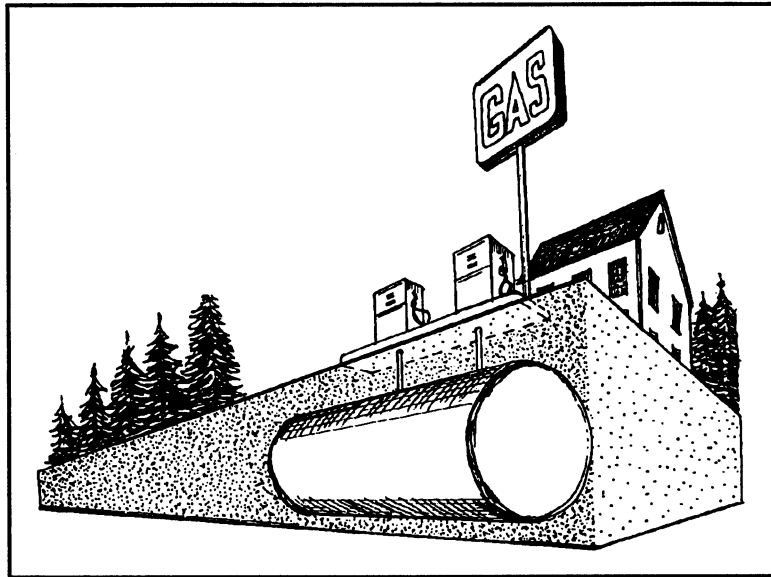
**11. Water Quality Protection**

**“Water Quality Protection** - All aspects of the project must be designed so that:

- (1) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- (2) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- (3) If the project is located within the direct watershed of a ‘body of water most at risk from development’ or ‘a sensitive or threatened region or watershed’ as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.”

*Discussion*

*This standard deals with hazardous materials and how they are handled on the site.*



*This standard addresses the protection of shoreland areas and the provision of shoreland access.*

*This standard assures that the applicant has the technical and financial resources to carry out the project as planned.*

*Model Ordinance Provisions*

**12. Hazardous, Special, and Radioactive Materials**

- “Hazardous, Special and Radioactive Materials** - The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.”

**13. Shoreland Relationship**

- “Shoreland Relationship** - The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.”

**14. Capacity of the Applicant**

- “Technical and Financial Capacity** - The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.”

*Discussion*

*Model Ordinance Provisions*

*This standard addresses protection of identified historical and archaeological resources.*

**15. Solid Waste Management**

- “Solid Waste Disposal** - The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project’s wastes.”

**16. Historic and Archaeological Resources**

- “Historic and Archaeological Resources** - If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.”

*This standard addresses the use of portions of the site subject to periodic flooding.*

**17. Floodplain Management**

- “Floodplain Management** - If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the [Town’s] [City’s] Floodplain management provisions.”

## F. Post Approval Activities

The site plan review process does not end with the approval of the site plan by the Planning Board. Provisions need to be made for record keeping, inspection, and changes to the approved plans.

### Discussion

### Model Ordinance Provisions

#### ● Duration of Approval

*Many communities require that construction of an approved project commence within a limited period of time. This provision establishes a period within which construction must begin or the approval becomes void. This assures that “old” approvals don’t pop up in the future when conditions or the regulations may be different.*

*This language establishes a one-year limit, but the length of time should be determined based on local needs.*

*The model provides for an extension of the time limit upon request of the applicant.*

#### ☒ “LIMITATION OF APPROVAL

Substantial construction of the improvements covered by any site plan approval must be substantially commenced within [twelve (12) months] of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to [two (2), six (6)] month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.”

#### ● Coordination with Building Permits

*Many communities require that the approved site plan become part of the building permit. This assures that the development occurs according to the approved plan. If your community uses building permits, you should include this provision.*

#### ☒ “INCORPORATION OF APPROVED PLAN

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the [Planner] [Code Enforcement Officer] to address field conditions.”

*Discussion*

*Model Ordinance Provisions*

● **Recording of the Approved Plan**

*Some communities require that a copy of the approved plan be recorded at the County Registry of Deeds to assure that there is a permanent public record of the approval. As an alternative, you can require that the as-built plan be recorded. If you want to require recording of approved site plans, include this provision in your ordinance. If you include multifamily housing under site plan review, you must include a provision for the recording of the approved plan.*

**“RECORDING OF THE APPROVED PLAN**

One copy of the approved site plan must be recorded in the \_\_\_\_\_ County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.”

● **Improvement Guarantee**

*If a project involves the construction of off-site improvements that are essential to the functioning of the project or compliance with the standards, some communities require the posting of a performance guarantee to assure that these will be completed in a timely manner. This provision establishes a procedure for requiring and handling performance guarantees.*

**“IMPROVEMENT GUARANTEES**

**1. Application**

- (1) Improvement Guarantee - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 2 below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.
  
- (2) Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate municipal officials. The respective municipal officials shall inspect all improvements and shall file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

*This provision allows the community to require the posting of a guarantee.*

*These sections provide for the release of the guarantee upon satisfactory completion of the required improvements.*

*You may want to insert the appropriate municipal officials.*

*Discussion*

*Model Ordinance Provisions*

*This section establishes the form of the guarantee.*

*The appropriate party for reviewing financial guarantees should be designated. This should be someone familiar with the legal nuances of these arrangements.*

- (3) The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the municipal officials.
- (4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

**2. Form of Guarantee**

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the [Town Manager] [City Manager] [Board of Selectmen] [Municipal Attorney].

- (1) Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
- (2) Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
- (3) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require [Town] [City] approval for withdrawal and must stipulate that the [Town] [City] can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.”

*Discussion*

*Model Ordinance Provisions*

● **Submission of As-Built Plans**

*For large scale projects, the ordinance should provide for the submission of a set of drawings showing the improvements as actually constructed. Customize the requirement to meet your local needs and the scale of development in your community.*

**“SUBMISSION OF AS-BUILT PLANS**

Any project involving the construction of more than [twenty thousand (20,000)] square feet of gross floor area or [fifty thousand (50,000)] square feet of impervious surface, must provide the [Planner] [Code Enforcement Officer] with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These “as-built” plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.”

● **Minor Changes to Approved Plans**

*During construction of a project, minor field changes are sometimes necessary to address actual site conditions. This provision allows minor changes to occur administratively.*

**“MINOR CHANGES TO APPROVED PLANS**

Minor changes in approved plans necessary to address field conditions may be approved by the [Planner] [Code Enforcement Officer] provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the [Planner] [Code Enforcement Officer].”

● **Amendments to Approved Plans**

*This language provides for the amendment of approved plans and ties the amendment procedure to the original approval process.*

**“AMENDMENTS TO APPROVED PLANS**

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.”



## G. Appeals

An applicant, abutter, or other party may not be satisfied with the action relative to a site plan review. Therefore, the community should provide a clear procedure for appealing decisions made under these provisions. Two basic approaches exist: appeal to another “local” body or appeal directly to the courts. The site plan review provisions should specify how appeals of Planning Board actions will be handled.

*Discussion*

*Model Ordinance Provisions*

### ● Appeals of Actions

*This language provides for appeals to the Superior Court.*

**“APPEAL OF PLANNING BOARD ACTIONS**

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.”

----- **OR** -----

*This language provides for appeal to the local Zoning Board of Appeals.*

**“APPEAL OF PLANNING BOARD ACTIONS**

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Zoning Board of Appeals. Any such appeal must be filed within thirty (30) days of the date upon which the Planning Board voted to take action on the application. Any aggrieved party may appeal the action of the Planning Board.”

## H. Administrative Provisions

If you adopt a freestanding site plan review ordinance, you must include certain administrative provisions, including:

- **Definitions**
- **Administration and enforcement**
- **Interpretations**
- **Amendments**
- **Relation to the ordinances**
- **Severability**
- **Penalties**

You should review your definitions if you incorporate the site plan review provisions into an existing ordinance to be sure that everything is consistent and to see if you need to add any definitions.

*Discussion*

*Model Ordinance Provisions*

### 1. Definitions

*The ordinance should define key terms used in the ordinance.*

**“DEFINITIONS**

#### 1. Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

#### 2. Definitions

**ABUTTING PROPERTY:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-

*Discussion*

*Model Ordinance Provisions*

of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

**ACCESSORY BUILDING:** A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

**ACCESSORY STRUCTURE OR USE:** A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**AGGRIEVED PARTY:** An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

**ARTERIAL:** A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

**BUILDING:** Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

**BUILDING FOOTPRINT:** The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located

*Discussion*

*Model Ordinance Provisions*

at ground level.

**CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE:** A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**COLLECTOR STREET:** A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

**CURB CUT:** The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

**ENLARGEMENT OR EXPANSION OF A STRUCTURE:** An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

**ENLARGEMENT OR EXPANSION OF USE:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

**FISHERIES, SIGNIFICANT FISHERIES:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant

*This definition precludes the consideration of fisheries that are not identified by governmental agencies or the municipality's comprehensive plan.*

*Discussion*

*Model Ordinance Provisions*

*This definition precludes the consideration of resources not identified by governmental agencies or the municipality's comprehensive plan.*

value as fisheries and any areas so identified in the municipality's comprehensive plan.

**FLOOR AREA:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls.

**GROUNDWATER:** All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

**HISTORIC OR ARCHAEOLOGICAL RESOURCES:** Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan.

**IMPERVIOUS SURFACE:** The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

**LOCAL STREET:** A public street or road which is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

**LOT AREA:** The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

*Discussion*

*This definition precludes the consideration of resources not identified by governmental agencies or the municipality's comprehensive plan.*

*Model Ordinance Provisions*

**NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES:** Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

**PRINCIPAL STRUCTURE:** A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

**PRINCIPAL USE:** A use other than one which is wholly incidental or accessory to another use on the same premises.

**RECHARGE AREA:** Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

**SETBACK, FRONT:** An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street R-O-W to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, REAR:** An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

**SETBACK, SIDE:** An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

*Discussion*

*Model Ordinance Provisions*

*This definition precludes the consideration of resources not identified by governmental agencies or the municipality's comprehensive plan.*

**STRUCTURE:** Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

**SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED:** Construction shall be considered to be substantially commenced when any work beyond the stage of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than [seventy (70)] percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

**USE:** The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.

**VEGETATION:** All live trees, shrubs, ground cover, and other plants.

**WILDLIFE HABITAT; SIGNIFICANT WILDLIFE HABITAT:** Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan."

*Discussion*

*Model Ordinance Provisions*

**2. Administration and Enforcement**

*This section establishes the Code Enforcement Officer as the administrator of the ordinance.*

**“ADMINISTRATION AND ENFORCEMENT**

This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers.

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A, § 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public



*Discussion*

*Model Ordinance Provisions*

health and safety or will result in substantial environmental damage.”

**3. Interpretation of the Ordinance**

*A procedure needs to be included for interpreting the provisions of the ordinance if questions arise. This section provides for the Code Enforcement Officer to make the initial interpretation with the possibility for an administrative appeal to the Zoning Board of Appeals.*

**“INTERPRETATION OF THE ORDINANCE**

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Zoning Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.”

**4. Amendments to the Ordinance**

*This section provides for amendments to the ordinance.*

*You should customize the petition procedures to your community's needs. Your charter or similar provisions may establish procedures for voter initiated amendments to your ordinances.*

**“AMENDMENTS TO THE ORDINANCE**

Amendments of this ordinance may be initiated by the Municipal Officers, the Planning Board, or by petition of [*ten (10) or more*] registered voters.

Any request for a petitioned amendment shall be accompanied by a filing fee established by the Municipal Officers. In addition, the petitioners shall be required to pay the costs associated with advertising the public hearing(s) on the proposed amendment. The Municipal Officers shall not schedule the public hearing on the request until the fee is paid.

No proposed amendments to this ordinance shall be referred to the [*Town Meeting*] [*Town Council*] until the Municipal Officers have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least

*Discussion*

*Model Ordinance Provisions*

two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

The proposed amendments shall be adopted by a simple majority vote of the [Town Meeting] [Town Council].”

**5. Severability**

*This section assures that the balance of the ordinance remains in force if any sections of the ordinance are found to be invalid.*

**“SEVERABILITY**

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.”