

SITE PLAN REVIEW ORDINANCE

I. PURPOSE

The substantial development or major changes in the use of land can cause a profound impact upon the cost and efficiency of municipal services and facilities and upon the environment of the Town. Such impact can affect municipal schools, recreation facilities, public utilities, solid waste programs, police department, fire department, open space, road systems, transportation systems, and the general health, safety and welfare of the municipality. It is the purpose of this ordinance to avoid such impacts when they are unreasonable and are potentially caused by developments including commercial, retail, industrial, institutional and multi-family residential dwelling units consisting of three or more attached dwelling units.

II. AUTHORITY AND ADMINISTRATION

- A. This Ordinance is adopted pursuant to the Home Rule Powers of Article VIII-A of the Maine Constitution and 30A M.R.S.A. 2101.
- B. The St. George Planning Board shall administer this ordinance.
- C. No building permit or plumbing permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any use or development within the scope of this Ordinance until a Site Plan Review Application has been reviewed and approved by the Planning Board.

III. APPLICABILITY

This ordinance shall apply to buildings, structures and uses of land for commercial, industrial, municipal, office, institutional or multi-residential purposes. Included in the definition are new and expanded buildings and structures and new and expanded uses of existing buildings and structures.

The ordinance does not apply to uses existing at the adoption of the ordinance, alterations, agricultural and forest management practices, subdivisions or home occupations.

IV. SITE PLAN CONTENT AND APPLICATION PROCEDURE

A. Pre-Application Procedure

- 1. Applicant shows sketch plan and makes a simple presentation of the proposed project to the Planning Board.
- 2. The Planning Board may, at that time, accept the sketch plan as a complete application and approve it or offer suggestions toward the drafting of a formal Site Plan Review Application.

- B. The Formal Site Plan Review Application shall include a Map or Plan and a written statement.
1. A map or plan prepared at a scale of not less than one inch to fifty feet and may include one or more of the following at the discretion of the Planning Board.
 - a. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of which the applicant has title or interest;
 - b. location of development on the site, illustrating existing and proposed improvements;
 - c. location of all water courses, brooks, streams and wetland areas within the site;
 - d. existing soil conditions and/or types;
 - e. municipal tax maps and lot numbers and names of abutting landowners;
 - f. graphic scale, true north indicator and total acreage of the development;
 - g. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights of way within the development;
 - h. location of buildings, other structures, wells, sewer and septic systems, water bodies, wetlands and roads within 300 feet of the developed area;
 - i. if the site is not served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided. The report shall contain the types of soil, location of the test pits and proposed locations and design of the best practical subsurface disposal system for the site;
 - j. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets and curb and sidewalk lines;
 - k. landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;
 - l. topography indicating contours at intervals as specified by the Planning Board.
 2. A written statement by the applicant that may consist of one or more of the following at the discretion of the Planning Board.
 - a. evidence by the applicant of his title and interest in the land for which the application covers;
 - b. a description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;
 - c. total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
 - d. summary of existing and proposed easements, restrictions and covenants placed on the property;
 - e. method of solid and sewage waste disposal;
 - f. erosion and sedimentation control plan;
 - g. statement of financial capacity;
 - h. the applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water and streets;

i. an estimate of the date when construction will start and when the development will be completed.

C. Application Procedures

1. The application shall be filed with the Planning Board for review and accompanied by a fee to be set by the selectmen for processing the application. Upon receiving the application, the Planning Board shall notify the applicant either that the application is a complete application, or if the application is incomplete, the additional material needed to make a complete application. specific

After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its review of the proposed development.

2. The Planning Board may hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of areawide circulation. The abutting landowners shall be notified of the hearing by certified mail.

Public hearings by the Planning Board shall be conducted according to the procedures outlined in Title 30A M.R.S.A. Section 291.

3. Within 30 days of the public hearing or 60 days of receiving the application the Planning Board shall either approve or approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.

4. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action and the reason for taking such action.

V. PERFORMANCE STANDARDS

A. The following standards are to be used by the Planning Board in judging applications for site plan reviews and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgment of the Planning Board the applicant is not able to reasonably meet any of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary for the Planning Board to review the application.

1. Preserve and Enhance the Landscape:

The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land-use.

2. Relationship of the Proposed Buildings to the Environment:

Proposed structure shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways.

3. Vehicular Access:

The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and controls of access points including site distances, turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road system.

4. Parking and Circulation:

The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

5. Surface Water Drainage:

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, soil erosion or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.

6. Existing Utilities:

The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities.

7. Advertising Features:

The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.

8. Special Features of the Development:

Exposed storage areas, exposed machinery installation, service areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

9. Exterior Lighting:

All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

10. Emergency Vehicle Access:

Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

11. Municipal Services:

The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

12. Water/Air Pollution:

Will not result in undue water or air pollution. In making this determination it shall at least consider:

- the elevation of land above sea level and its relation to the flood plain.
- the nature of the soils and subsoils and their ability to adequately support water disposal; and
- the slope of the land and its effect on effluents.

13. Water:

Has sufficient water available for the reasonable foreseeable needs of the development, and will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

14. Soil Erosion:

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

15. Sewage Waste Disposal:

Will provide for adequate sewage waste disposal.

16. Scenic/Natural Beauty:

Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

17. Financial/Technical Capacity:

The developer has adequate financial and technical capacity to meet the above state standards.

18. Shoreland Zone:

Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

19. Lot Standards:

- a. Lot configuration and area should be designed to provide for adequate off-road parking service facilities.
- b. The maximum lot coverage for buildings is 20 percent.
- c. The maximum height of buildings is 35 feet.
- d. The minimum building setbacks are
 - 1) Front yard: 25 feet from edge of right-of-way.
 - 2) Side yard: 20 feet from property line.
 - 3) Rear yard: 20 feet from property line.
 - 4) Shoreland: As per Shoreland Zoning Ordinance.

VI. CERTIFICATE OF COMPLIANCE

No lot, building or structure requiring approval under this Ordinance shall be conveyed, leased, or occupied or offered for sale, conveyance, lease or occupancy without a certificate of occupancy issued by the Code Enforcement Officer indicating that all of the terms of approval have been complied with.

VII. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. Validity and Separability: Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the ordinance.
- B. Conflict with Other Ordinances: Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

VIII. AMENDMENTS

This ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Planning Board shall conduct a public hearing on any proposed amendment.

IX. PERFORMANCE GUARANTEES

A. Guarantee Required

The final plan shall be accompanied by a performance guarantee or, at the discretion of the Planning Board, a conditional agreement. The performance guarantee shall be for an amount adequate to cover the total construction costs of all required improvements for roads, utilities, sewerage collection and other improvements for the public benefit.

B. Types of Guarantees

The following types of guarantees are acceptable.

- 1. Certified check paid to the town or a savings account or certificate of deposit naming the town as owner.
- 2. A performance bond payable to the town issued by a surety company.

3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project.

4. A conditional agreement, if acceptable in lieu of a performance guarantee, shall be endorsed by the Planning Board. It shall provide that no occupancy of the property may take place until the completion of all street grading, paving, utilities and other improvements for the public benefit.

C. Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each phase of construction, provisions for inspection of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the town shall have access to the funds to finish construction.

D. Completion of Required Improvements

The completion of improvements shall be determined by the Code Enforcement Officer. The Planning Board shall receive signed certification from the Code Enforcement Officer that all improvements assured by the performance guarantee have been met. In addition, the Planning Board may require a professional engineer inspect that project and certify that all required improvements have been completed. The costs of the inspection shall be incurred by the applicant.

E. Release of Performance Guarantee

The performance guarantee shall be released to the applicant by the Planning Board only after:

1. The Board receives the above certification of completion;
2. The applicant has furnished the Town with an accurate record plan and profile (original drawn on durable, permanent transparency material) of all streets including drainage lines, sanitary sewage lines, water mains and all other utilities as actually installed.

X. WAIVERS

A. Submission Requirements

Where the Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be developed, it may waive portions of the submission requirements, provided the public health, safety and welfare are protected.

B. Waiver of Performance Standards

Where the Planning Board makes written findings of fact that there are special circumstances of a particular site proposed to be developed, it may waive portions of the performance standards to permit a more practical and economical development, provided the public health, safety and welfare are protected.

C. Waivers Conditionally Granted

In granting waivers to any of the provisions of this Ordinance in accordance with Subsection A and B above, the Board shall require such conditions as will assure the purpose and objectives of this Ordinance are met.

XI. APPEALS

An appeal from any decision of the Planning Board under this Ordinance shall be taken to the St. George Board of Appeals within thirty (30) days of the Planning Board decision. An appeal from any decision of the Board of Appeals may be taken to the Superior Court within thirty (30) days of the Board of Appeals' decision, in accordance with the Maine Rules of Procedure, Rule 80-B.

A. Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers as they relate to this ordinance:

Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made in writing by the Planning Board in the administration or enforcement of this Ordinance.

B. Procedures.

1. Application and Hearing

a. An administrative appeal shall be taken within thirty (30) days of the date of the order, requirement, decision or determination appealed from, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

b. An appeal shall be made by filing a written application to the Board of Appeals.

c. Upon receiving an application for an administrative appeal from a decision of the Planning Board, the Code Enforcement Officer shall cause all of the papers constituting the record of the Planning Board proceeding to be transmitted to the Board of Appeals.

d. The Board of Appeals shall hold a public hearing on an administrative appeal within thirty-five (35) days of the Town's receipt of the written application.

2. Decision by Board of Appeals

a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an application. A member who abstains shall not be counted in determining whether a quorum exists.

b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Planning Board, to grant a variance, or to decide in favor of the applicant on any matter which the Board of Appeals is required to decide under this Ordinance. The applicant shall have the burden of proof. The Board of Appeals may reverse or modify a decision of the

Planning Board only if it finds an error of law, misinterpretation of this Ordinance or misapplication of the law to the facts. If the Board of Appeals reverses or modifies a decision of the Planning Board, the Board of Appeals shall remand with instructions for such further action as may be necessary to effect a final disposition of the matter.

c. When the Board of Appeals reviews a decision of the Planning Board, such review is limited to the record of the proceedings before the Planning Board. The Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider oral or written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board, and shall cause such statement to be included in the written record of the Board's proceedings. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision.

3. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of the decision of the Board of Appeals.

XII. VIOLATIONS, ENFORCEMENT AND FINES

A. Violations and Enforcement

The Code Enforcement Officer shall be responsible for the enforcement of this Ordinance, and upon finding a violation of the Ordinance, shall notify in writing the person or persons responsible for the violation. The notice shall include the nature of the violation and the action necessary to correct the situation. A copy of this notice shall be provided to the Planning Board.

B. Legal Action

When a person does not correct a violation after receiving notice to do so, the Selectmen, after notice from the Code Enforcement Officer, may institute all legal and equitable actions to correct the violation.

C. Fines

Any person who continues to violate a provision of this Ordinance after receiving written notice to correct the situation shall be subject to penalties as outlined at 30-A M.R.S.A. Section 4506.

XIII. DEFINITIONS

Accessory Use or Structure - A use or structure which is incidental and subordinate to the principal use or structure; and which is located on the same lot with the principal building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment. 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.

Agricultural Land Management Practices - Those devices and procedures utilized in the cultivation of land to further crop and livestock production.

Alteration - Structural changes, rearrangement, repairs and modification in building equipment not involving any increase in overall floor area of the structure or building.

Building - Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple family dwelling.

Campground - An area devoted to overnight recreational or educational use, where the land area is divided into sites or lots for which a charge is made; either on a short or a long-term basis by sale, rent or lease or condominium type of financing.

Commercial Use - the use of lands, buildings, or structures, other than a "home occupation", defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Comprehensive Plan - Any part or element of the overall plan or policy for development of the Town as defined in 30, M.R.S.A. 4961.

Contiguous Lots - Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

Developed Area - Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, roads and other areas not re-vegetated.

Driveway - A private vehicular entrance from a road or right-of-way.

Expansion of a Structure - An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of Use - The addition of months to a use's operating season, or the use of more floor area or ground area devoted to a particular use.

Floor Area - The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest Management Activities - Timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Height of Structure - The vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Home Occupation - An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Industrial - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Institutional - A building devoted to some public educational, charitable, medical or similar purpose.

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.

Multi-Family Residential - A residential structure containing three or more residential dwelling units.

Person - An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Residential Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family. The term shall include mobile homes, but not recreational vehicles.

Retail - Connected with the sale of goods to the ultimate consumer for direct consumption and not for trade.

Road - A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Site Plan - A plan showing the proposed layout of buildings, roads, parking, landscaping

and other site improvements.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks. It does not include driveways, but does include paved parking area.

Use - Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; also any activity, occupation, business or operation carried on in a building or other structure or a tract of land.

Variance - A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

TOWN OF ST. GEORGE, MAINE
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