

Section 104.24 SITE PLAN REVIEW

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Section 104.24 SITE PLAN REVIEW

The site plan review provisions set forth in this *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 the fabric of the community.

A. Applicability

1. 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:
 - a. 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 five hundred (1,500) square feet or more, except three thousand (3000) square feet in the R-3 and R-3A zones
 - b. 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 (5) year period by more than twenty (20) percent of the existing total floor area or one thousand five hundred (1,500) square feet, whichever is greater.
 - c. The conversion of an existing building in which one thousand five hundred (1,500) or more square feet of total floor area are converted from residential to nonresidential use.
 - d. 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.
 - e. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use, whenever the new use will result in an increase in pedestrian or motor vehicle traffic, hours, noise, storm water flows, lot coverage, or other on or off site impacts. If there is an approved site plan for the existing use, the site plan application for the proposed new use may be processed as a site plan amendment under subsection 104.24(l) below.

- f. The construction of a residential building containing three (3) or more dwelling units.
 - g. 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.
 - h. 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.
 - i. 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.
 - j. Marinas and telecommunications facilities.
 - k. The construction of any nonresidential building which will be divided into three (3) or more leased or sold units within a five year period.
2. The following activities shall not require site plan approval. Certain these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:
- a. The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory buildings and structures.
 - b. The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
 - c. Timber harvesting and forest management activities.
 - d. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this ordinance.

B. 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. 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.

a. 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
- (4). Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
- (5). In addition, the Board may schedule a site inspection if deemed necessary and discuss any requests for waivers from the submission requirements. If a site visit is scheduled a public notice of the visit will be published in the same manner as a meeting, Section 104.24(C)(2)(c).

b. 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

- a. The applicant shall prepare and submit a site plan review application on a form approved by the Planning Board. The application also to include a development plan and supporting documentation that meets the submission requirements set forth below. This material shall be submitted to the Code Enforcement Office or the secretary of the Planning Board.
- b. Within thirty (30) days of the filing of an application for site plan review, the clerk or a designate of the planning board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional materials needed to make a complete application. If the applicant disagrees with the completeness review they can appeal and the final decision will be made by the chairman of the Planning Board.
- c. Within thirty (30) days of the notification of a completed application the planning board shall hold a public hearing on the application. The planning board shall notify interested parties of the public hearing by placing a notice of hearing in one (1) newspaper with local circulation at least seven (7) days prior to the hearing stating the nature of the hearing and the time and place of the public hearing thereon. In addition, owners of abutting property shall be notified by direct mail. The public hearing may be adjourned to a different time or place without further notification, providing that it is so-journed at the hearing which has been noticed.
- d. 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 during the public hearing at which the application is considered. The site visit will be considered a continuation of the public hearing. The Board may decide not to hold an on-site inspection when the project is very simple or if 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 take final action on the application as specified in may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection. The board members individually or in groups of not more than two may visit the site at any time.

- e. Within thirty-five (35) days of the completion of the public hearing the planning board shall approve, approve with condition, or disapprove the site plan. The board shall limit its review to the criteria set forth in section 104.24(b). The board may consult with the applicant or any other party in making its decisions. All decisions of the board shall contain a statement setting forth the exact reason for the finding. A copy shall be forwarded to the applicant and the building inspector

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. The Planning Board, by vote, may extend the filing period for good cause.

4. Fees

a. 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 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 City and evidence of payment of the fee shall be included with the application. The amount of the fee shall be determined by the City Council and may be amended from time to time.

b. Technical Review Fee

In addition to the application fee, the Board shall require the owner or the owner's authorized agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review of the application, which the Board finds is reasonably necessary to protect the general welfare of the City. The amount for this escrow payment is established by the Code Enforcement Officer or the secretary of the Board. If the applicant feels the amount is excessive the applicant may appeal to the Board. This escrow payment shall be made before the Board engages any outside party to undertake this review to make recommendations to the Board and prior to the board considering the application. When 75% of the escrow has been disbursed, review of the application

shall cease until the applicant replenishes the escrow in an amount to be determined by the Board.

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 in such fund shall not be used by the Board for any enforcement purposes.

5. Submission Requirements

- a. Applications for site plan review must be submitted on application forms provided by the City. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Officer. The submission must contain at 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 finding that the information is not required to determine compliance with the standards.
- b. All applications for site plan review must contain a fully executed and signed copy of the application for site plan review and evidence of payment of the application and technical review fees. The applications submitted following the completion review must include ten (10) copies of written materials plus ten (10) sets of maps or drawings containing the information listed below. It is suggested the written materials 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:

c. General Information

- (1). Record owner's name, address, and phone number and applicant's name, address and phone number if different. If person signing the application is not the owner, the application must include a letter authorizing the person to act on the owner's behalf.
- (2). The area of the project parcel and the location of all required building setbacks, yards, and buffers.
- (3). Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
- (4). 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.
- (5). The tax map and lot number of the parcel or parcels on which the project is located.
- (6). Information to demonstrate right, title or interest in the property on the part of the applicant
- (7). Copies of any existing covenants, deed restrictions, easements, rights-of-way or other encumbrances affecting the property and delineated on the site plan.
- (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.

d. 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 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, fisheries, 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). The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

e. 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-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. The applicant shall submit a site landscaping plan that presents the location and quantity of all project plantings. The applicant shall also submit a planting schedule keyed to the site landscaping plan that lists the botanical and common names, size at planting and quantity of all project plantings. The plans shall include provisions for buffering of incompatible adjacent structures and uses and screening of ground-, wall-, and rooftop-mounted equipment, refuse containers, storage structures and loading facilities.
- (6). The location, dimensions, ground floor elevation, exterior materials and colors of all proposed buildings or building expansions 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. Unless otherwise required by the Planning Board plans shall be submitted for all proposed exterior lighting drawn to a scale of 1" = 20' and shall include the location and type of lighting equipment, manufacturer's specification sheets and point-by-point calculated luminance values noted on a 10-foot grid.
- (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 using the latest edition of Trip Generation, published by the Institute of Transportation

Engineers. If the project is estimated to generate fifty (50) or more peak hour trips, the applicant shall submit a traffic impact study prepared by a professional engineer with experience in traffic engineering.

- (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 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.
- (13). A grading plan showing the existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.
- (14). Location and method of screening of outdoor storage.
- (15). List of any state or federal permits required for the proposed project, including those required under the Site Location of Development Act, the Stormwater Management Law or the Natural Resources Protection Act or other permits under the jurisdiction of the Maine Departments of Environmental Protection or Transportation. Final approval of the Site Plan is not valid until such permits are issued and no changes to the plan have occurred.

6. 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 of Old Town Planning Board.

D. 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.

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

Vehicular access to and from the development must be safe and convenient.

- a. Any driveway or proposed street must be designed so as to provide the maximum sight distance as practicable for vehicles leaving the site.
- b. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- c. 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.
- d.. The intersection of any access/egress drive or proposed street must function: (a) at a minimum 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.
- e. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot should 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.
- f. 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, sidewalks and traffic controls within public streets.
- g. Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

- h. The following criteria must be used to limit the number of driveways serving a proposed project:
 - (1). No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two (2) way driveway or two (2) one (1) way driveways onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
 - (2). 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."
- i. Access ways must meet the following standards:
 - (1). Driveways 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). Driveways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.
- J. The layout of the site must provide for the safe movement of passenger, service and emergency vehicles through the site.
- k. 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.
- l. Parking shall comply with the requirements of section 104.11. Parking areas shall provide safe, convenient, and efficient access for vehicles and pedestrians.
- m. Parking lots over 100 spaces shall be segmented visually and functionally into distinct parking areas of no more than 60 spaces by landscaped and curbed medians with a minimum curb to curb width of 10 feet. Curbed landscaped islands shall be sited at the end of each parking aisle and within parking aisles at intervals no greater than one island per every twenty (20) spaces. Islands at the ends of aisles shall be counted toward meeting this requirement. Each required landscaped island shall be a minimum of three hundred sixty (360) s.f. in landscaped area.

- n. An attempt shall be made to limit off-street parking sited between the front façade of the principal building and the primary abutting streets with the exception of parking areas used for the display of vehicles for sale.

3. 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, 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

The site must be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration, 2-, 10-, and 25-year frequency storm events. The storm water plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Penobscot Soil and Water Conservation District.

If the development requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as evidence that this section has been satisfied and that an additional submission required under this section is not required.

5. Erosion Control

The erosion and sediment control plan must be prepared by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC) in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof, and include the following items:

- a. The name, address, and telephone number of the person responsible for implementation of the plan.
- b. A vicinity map showing the location of waterbodies that may be affected by erosion and sedimentation from the project.
- c. Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies.
- d. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
- e. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
- f. Description of temporary and permanent erosion control practices that will be used.
- g. Identification of the locations of the temporary and permanent erosion control practices.
- h. Identification of how and where collected sediment will be disposed.
- i. Dust control measures.
- j. Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Penobscot Soil and Water Conservation District.

6. Water Supply Provisions

The applicant must demonstrate that the project will have an adequate water supply. 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.

If the project is to be served by a private water supply, the Board may require the applicant to submit evidence that the water supply will be adequate and will not adversely affect existing users. In addition, the applicant must demonstrate that adequate water will be available for fire suppression. The Planning Board may require either installation of sprinklers with an on-site water supply or installation of a minimum ten thousand (10,000) gallon underground tank with dry hydrant. =

7. Sewage Disposal Provisions

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

- a. 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. Compliance with this section shall be by written approval of the Superintendent of Pollution Control Department.
- b. 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.

- c. 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.
- d. 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.
- e. 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 the Old Town Pollution Control Authority.

8. 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.

9. Natural Features and Landscaping

- a. The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance, compaction of soil and water bodies, including wetlands, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible. Existing trees with diameters greater than six (6) inches shall be retained in buffer and landscape areas to the maximum extent possible unless a licensed forester, arborist, or landscape architect can show that the tree or trees are diseased or are declining.
- b. Minimum of 30% of a principal building's total foundation, including a minimum of 50% along the building's front façade, shall be planted with landscaping consisting of one 1.5" caliper

tree native to Maine and 4 shrubs per ten (10) linear feet of foundation. This landscaping shall be near entrances and facades facing public streets as well as in parking areas.

- c. One 2.5" caliper canopy tree native to Maine, one 4-foot high understory tree native to Maine, and five 12" high evergreen or 15" high deciduous shrubs shall be planted within each parking lot island.
- d. Landscaping consisting of three 2.5" caliper street trees, six 4-foot high understory trees, ten 12" high evergreen or 15" high deciduous shrubs and five 3-foot evergreen trees shall be planted every 50' along and within a minimum 30-foot wide green strip buffer adjacent to all public street and along and within a minimum 20-foot wide green strip buffer adjacent to all private streets and drives including parking lot connectors, circulation drives (including those adjacent to building) and loading areas.
- e. Trees and or shrubs to be planted should be chosen for their compatibility with existing or deposited soils to enhance their potential survival and vigor. A licensed forester, arborist, or Landscape architect may be required to assure such compatibility if the board requests.
- f. Landscaping shall be considered an integral component of the approved project. The applicant shall replace within 30 days any landscaping that dies, is removed or otherwise requires replacement. Such replacement landscaping shall be equivalent in species and size to the original landscaping unless the applicant can demonstrate to the satisfaction of the code enforcement officer that site conditions require an alternative species of comparable size.

10. 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.

11. Water Quality Protection

All aspects of the project must be designed so that:

- a. 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 ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- b. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
- c. If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

12. 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

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

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.

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

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.

17. 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 Old Town floodplain management provisions.

18. Exterior Lighting

- a. The following lighting criteria shall not be exceeded:
 - (1).Parking lots: an average of one (1.0) foot-candles throughout, a maximum of six (6) foot-candles and a maximum-to-minimum uniformity ratio of twenty to one (20:1) foot-candles
 - (2).Intersections: an average of three (3) foot-candles throughout, a maximum of six (6) foot-candles and a maximum-to-minimum uniformity ratio of twenty to one (20:1) foot-candles
 - (3).Maximum at property lines: 0.1 foot-candles
- b. The maximum height of freestanding lights shall be the same as the principal building, but shall not exceed twenty (20) feet
- c. All lights shall have shielding to provide a beam cut-off at no more than seventy-five (75) degrees nadir.

- d. The applicant shall demonstrate to satisfaction of the Planning Board that the proposed lighting is appropriate for the intended use. The Board shall consider the hours of operation, characteristics of the neighborhood and the specific activities proposed in making its determination. When the activity is not in use, lighting shall be turned off or turned down to security level as determined by the Old Town Police Chief.
- e. Lighting shall be located along streets, parking areas, at intersections and crosswalks and where various types of circulation systems merge, intersect or split. Pathways, sidewalks and trails shall be lighted with low or mushroom-type standards

19. Screening

- a. Ground- and wall-mounted mechanical equipment, refuse containers and permitted outdoor storage must be fully concealed from on- and off-site ground level views with materials identical to those on building exterior. All trash collection areas that are not within an enclosed building or underground must be screened or recessed so that they are not visible from public streets, public sidewalks, internal pedestrian walkways, or adjacent residential properties and at least fifty (50) feet from any lot line. Screening and landscaping of these areas shall conform to the predominant materials used on the site.
- b. Rooftop equipment must be screened by parapets, upper stories or exterior walls from view from public streets within one thousand (1,000) feet. Gates and fencing may be used for security and access but not for screening. Chain link, wire mesh or wood fencing is not acceptable.
- c. Loading docks must be screened from surrounding roads and properties by walls matching the building's exterior or fully opaque landscaping

20. Outdoor Sales (applicable to retail establishments greater than ten thousand (10,000) s.f.) The Planning Board may modify or waive one or more of the following standards for vehicle display areas if it finds that the application of such standards is impractical or inappropriate.

- a. Areas for outdoor sales of products must be extensions of the sales floor into which patrons are allowed free access. Such areas shall be incorporated into the overall design of the building and the landscaping and shall be permanently defined and

screened with walls and/or fences. Materials, colors and design of screening walls and/or fences shall conform to those used as predominant materials and colors on the building. If such areas are to be covered, then the covering shall be similar in materials and colors to those that are predominantly used on the building facade. Outdoor sales areas shall be considered as part of the gross floor area of the retail establishment.

- b. Except for agricultural, landscaping, nursery and similar products normally stored outdoors, outdoor storage of products for sale in an area where customers are not permitted is prohibited unless it is visually buffered from adjacent streets and abutting developed properties. This prohibition includes outdoor storage sheds and containers.
- c. Outdoor sales areas must be clearly depicted on site plan. They must be at least ten (10) feet from motor vehicle routes and protected by a physical barrier.

E. Post Approval Activities

1. Limitation of Approval

- a. Substantial construction of the improvements covered by any site plan approval must be substantially initiated within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially initiated 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.
- b. The planning board may approve a phased plan, however construction must not be interrupted for a period of more than two years.

2. 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 Code Enforcement Officer to address field conditions.

F. Improvement Guarantees

1. 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 Code enforcement Officer 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.
3. The Code Enforcement Officer shall 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.
5. 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 Finance Director.
 - a. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
 - b. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
 - c. 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 City approval for withdrawal and must stipulate that the City can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

G. 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 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.

H. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the 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 Code Enforcement Officer.

I 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.

J Administrative Provisions

1. Appeals

Appeal of any actions taken by the Planning Board with respect to this section shall be to Superior Court. 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.

2. Administration and Enforcement

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance with respect to approved site plans, including all issues relating to compliance of a project with the approved plans.

Any aggrieved party who believes that the CEO has made an error in administering the provisions of this ordinance with respect to an approved site plan, including enforcement determinations by the CEO, may appeal the CEO's decision or determination to the City of Old Town Board of Appeals in accordance with the provisions of Section 107 of the Zoning Ordinance, as an administrative appeal.

An appeal of the CEO's decision or determination under this subsection may not be used to challenge the Planning Board's findings or decision with respect to the original site plan permit application or site plan amendments. A determination by the CEO that a requested change to an approved site plan must be submitted to the Planning Board for approval may not be appealed under this subsection.