

Article XII Site Plan Review

Section 1. Purpose and Applicability

The purpose of site plan review is to assess the impact of new development on surrounding properties, municipal facilities and services, and the natural environment. Only uses that have been established as permitted uses, either as a matter of right or as a result of successful review as a special exception, are intended to be able to proceed to site plan review. Therefore, the purpose of site plan review is not to establish the right of a use to be located in the area proposed, but rather it is to assure that the way the use is designed and placed on a lot is appropriate to its surroundings. This section shall apply to:

- (1) Proposals for **new construction** of nonresidential buildings or structures and of multifamily dwellings, including accessory buildings or structures, having a total area for all floors of **more than 1,000 sq. ft.** and placement of non-temporary accessory storage containers. *(Amended - 11/5/13)*
- (2) Proposals **for enlargement of** nonresidential buildings or structures and of multifamily dwellings, including accessory buildings and structures, if the enlargement has a total area for all floors **within a five-year period of more than 1,000 sq. ft.**
- (3) **Proposals to pave, strip, remove earth materials from, or grade areas of more than 10,000 sq. ft. within a five-year period for non-residential uses and mineral extraction in accordance with Article X, Part II, Section 1(2)(b), except that Site Plan Review is not required for roads and infrastructure for approved subdivisions or for construction, maintenance or repair of municipal or state roads and infrastructure.** *(Amended - 11/13/07)*
- (4) Proposals to pave, strip, remove earth materials from, or grade areas **of more than 40,000 sq. ft. within a five-year period for residential uses;** however, in reviewing such proposals, the Planning Board shall only consider Section 6, Approval Criteria, (1), (2) and (5). *(Amended - 11/13/07)*
- (5) Proposals to **change residential uses to nonresidential uses having** a total non-residential floor area of more than 1,000 square feet. *(Amended - 6/20/06)*
- (6) Proposals to construct, enlarge, or extend piers, wharves, bulkheads, breakwaters, consolidated piers, causeways, marinas, bridges over 20 feet in length, and uses projecting into water bodies. *(Amended - 6/20/06)*
- (7) Proposals to construct **new wireless telecommunications facilities, and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than 20 feet.** Such proposals shall also be reviewed according to the Wireless Telecommunications Facility Siting Ordinance.

New Construction & Expansion are same See also sub (8).

Same as Rockport but much more explicit than "lot" alteration.

Good idea.

WOULD LIKE TO SEE BOTH CY & IMPERVIOUS AREA TRIGGERS

(8) Proposals under (1) and (2) above ^{and?} or proposals that include two or more of the following types of exterior renovations to a non-residential or multi-family building within a two-year period, in the B-1, B-TH or B-TR zoning districts:

- (a) façade
- (b) roof
- (c) siding
- (d) awnings
- (e) exterior lighting
- (f) historic or architectural details

IS THIS A WAY TO GET AN ELEVATION DRAWING SUITABLE FOR ARCHITECTURAL REVIEW?

(Item 8 added - 11/2/10)

This Section does not apply to agricultural land management practices and forest management practices.

Section 2. Procedures

- (1) No building permit or plumbing permit shall be issued by the Code Enforcement Officer or Local Plumbing Inspector for any use or development within the scope of this Article until a site plan of development has been approved by the Planning Board.
- (2) Applicants are encouraged to meet in a pre-application conference with the Planning Board prior to formal submission of an application.
- (3) Every applicant applying for site plan approval shall submit to the Code Enforcement Officer nine (9) copies of a complete site plan of the proposed development, which shall be prepared in accordance with Section 3 of this Article, accompanied by a fee as determined by the Selectmen. All approved site plans produced with a computer assisted design program shall be submitted with a digital copy of the plan in a form acceptable to the Town. A fee schedule for site plan review shall be established by the Selectmen annually. The schedule shall include a fee for applications for site plan review and for site plan amendments that are filed after the commencement of the activity for which approval is required, such fee to be greater than the fee for an application that was filed in a timely manner. The Code Enforcement Officer shall retain two (2) copies of the plan and forward one copy each to the fire chief, town manager, police chief, superintendent of the wastewater treatment plant, and director of the solid waste disposal system. *(New second sentence - 11/15/05)*
- (4) A complete application for site plan approval shall be submitted at least fifteen (15) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application which is not complete shall not be placed on the agenda but shall be returned to the applicant by the Code Enforcement Officer with instructions as to the additional information required. The Code Enforcement Officer shall review the proposed project for Zoning Ordinance compliance and to determine that all special exceptions and/or variances which may be necessary first have been obtained from the

Goes to content of Site Plan submittal

D. Definitions

For the purposes of these standards the following definitions shall apply:

1. Driveway - A one-way or two-way entrance or exit used by vehicular traffic to access property abutting a highway. As used in this ordinance, the term includes private residential driveways as well as commercial and other non-residential driveways.
2. Entrance (curb cut) - The point at which a driveway or road intersects with a public road.
3. Parking lot - An area with more than two parking spaces and enough space for the vehicles that ordinarily use that area to turn around.
4. 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.

SECTION 18 - COMMERCIAL SITE PLAN REVIEW ORDINANCE

Section 1. Purpose, Intent, Conflict, and Severability

1.1 Purpose:

- To provide municipal review of commercial projects and their impact on the community.
- To provide a thorough review of major impact projects and expedite review for minor projects.

1.2 Statement of Intent:

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 and protect 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; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of the groundwater; wildlife habitat, fisheries, and unique natural areas; protecting historic and archaeological resources; conserving the Town's natural beauty and visual character, minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

1.3 Conflicts With Other Ordinances:

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

1.4 Severability:

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

Section 2: Activities Requiring Site Plan Review

2.1 Except as set forth in Section 2.2 below, a person who has right, title, or interest in a parcel of land or their representative must obtain site plan approval before obtaining a building or plumbing permit, undertaking any alteration or improvement of the site including grubbing or grading, or prior to commencing any of the following:

- a. The construction or placement of any new building or structure for a nonresidential use including accessory buildings and structures. *No square foot threshold.*
- b. The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area. *STEVE SUGGESTED % INCREASE THRESHOLD*
- c. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use. *Key issue for all towns.*
- 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, campgrounds, junkyards, and other nonstructural nonresidential uses.
- e. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use on a site that has not been reviewed under Sections 11, 12 and 13 of the Commercial Site Plan Review Ordinance. *Even more steps to complete application than we have in Rockport.*

this really includes this

The Landowner will be asked to appear before the Planning Board to request a determination of whether or not the proposed use requires full Site Plan Review. In reaching this determination the Board shall consider:

- i. the size of the proposed use compared with surrounding uses;
- ii. the intensity of the proposed use, including amount and type of traffic to be generated, hours of operation, expanse of pavement, and similar measures of intensity of use, compared with surrounding uses;
- iii. the potential for generation of noise, dust, odor, vibration, glare, smoke, litter, and other nuisances;
- iv. unusual physical characteristics of the site, including size of the lot, shape of the lot, topography, and soils, which may tend to aggravate adverse impacts upon surrounding properties;
- v. potential for increased impact on the environment;
- vi. the ability of traffic to safely move into and out of the site at the proposed location;
- vii. the presence of facilities to assure the safety of pedestrians;

sub i-ix are extremely subjective and don't have to be...

- viii. the capacity of neighborhood streets and roads to accommodate the proposed level of use;
- ix. adequacy of the storm drainage system to accommodate the proposed use.
- f. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use on a site that is part of an Approved Site Plan. (See Section 16.2, Amendments to Approved Plans, which applies here.)
- g. The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by two (2) or more in any five (5) year period. *WEIRD OVERLAP w/ SUBDIV*
- 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 any surfaced area, including walkways, access drives, and parking lots involving an area of more than 5,000 square feet within any three (3) year period. *Close enough to impervious area.*
- j. The removal from or movement within a lot of more than 50 cubic yards of material. *CY = much better unit of measure.*
- k. The addition of more than 150 cubic yards of material.

2.2 Activities Not Requiring Site Plan Review:

The following activities shall not require site plan approval. Certain activities will, however, require the owner to obtain a building permit, plumbing permit, or other state or local approvals, including permits, which are required by other Town ordinances.

- 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 house or mobile home dwelling, including accessory buildings and structures, on individually owned lots which are not part of a mobile home park.
- c. Agricultural activities, including agricultural buildings and structures.
- d. Timber harvesting and forest management activities.
- e. Storage of a commercial fishing boat and related gear.
- f. The establishment and modification of home occupations.

DOES IT MAKE SENSE TO MAKE A LIST?!

the Knox County Registry of Deeds. Nor shall such person, firm, corporation or other legal entity sell or convey any land in an approved subdivision unless at least one "permanent marker" as defined in 30 MRSA, Section 4956(4) is set at one lot corner of the lot sold or conveyed. Nor shall there be any sewer, water, or other public utility services installed, streets constructed, lots graded, buildings erected or other improvements made to any lot in a subdivision for which a Final Plan has not been approved. Violation of this provision shall be punishable by a fine of not more than one thousand dollars (\$1000) for each offense. The City Council may institute legal proceedings seeking other appropriate relief in addition to a fine, including but not limited to injunctive relief and specifically the restoration of the land to its previous condition.

Sec. 16-107 Resubdivision

After approval of a plat by the Board, any additional division of land within or contiguous to the plat or any changes to privately owned rights-of-way created by the subdivision, shall be subject to the full requirements of these regulations for review and approval. This requirement shall not apply to divisions of land in an approved subdivision which are conveyances between abutters, and which result in an increase in lot size to the lots involved. Eff: 5/14/97

Sec. 16-108 Waivers

1. Hardship. Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardship due to topographical considerations may result from strict compliance with the regulations or where there are special circumstances of a particular plan, it may vary such regulations provided that these variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, the shoreland use ordinance or other land use ordinances where such exist.

2. Special Circumstances. Where the Zoning Board of Appeals finds that due to special circumstances of a particular plan, the provision of certain required improvements and regulations not requisite in the interest of public health, safety and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

3. Conditions Imposed. In granting waivers and modifications, the Zoning Board of Appeals shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

Sec. 16-109 Appeals

Pursuant to Maine Rule of Civil Procedure 80B, appeals from a final decision of the Planning Board to approve, approve with conditions, or deny a subdivision application may be filed with the Knox County Superior Court by any person aggrieved within thirty (30) days of the Board's decision. Eff: 01/09/08

Sec. 16-110 Validity and Severability, Effective Date and Filing

1. Severability. Should any section or provision of these regulations be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of these regulations.

2. Filing in Registry. A certified copy of the Subdivision Regulations and any amendments shall be endorsed by the City Clerk and shall be filed with the Knox County Registry of Deeds in the manner provided by law.

State Law Reference: 30-A M.R.S. § 4401: 33 M.R.S. §§ 1601-105, 1601-106; 38 M.R.S. §§ 481-490.

ARTICLE II Site Plan Review Ordinance

Sec. 16-201 Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

No person, corporation or other legal entity shall construct a new structure or structures or add on to an existing structure or structures, for a public, commercial or industrial use or for a multi-unit residential development which consists of five or more dwelling units and which does not constitute a subdivision without first obtaining approval from the Planning Board under this Section. No building permit for projects requiring review under this Section shall be issued by the Code Enforcement Officer

() trying to avoid overlap w/ Subdiv.

could be replaced with "the Site Plan."

CEO → ZBA → PB = way too many steps.

without evidence that the project has received final Planning Board approval. If an interpretation or variance appeal is filed with the Zoning Board of Appeals prior to the granting of final approval of the application by the Planning Board, the Planning Board shall table final action on the application pending the Zoning Board of Appeals' decision and shall notify the Zoning Board of Appeals of that action. Eff: 01/09/08

by zone and then parking.

Any change of use of an existing structure or land to another permitted use not within the Downtown Parking District, the Industrial Park, or the Plaza Commercial Zone, where the required number of parking spaces for the use is ten (10) or more in accordance with Section 19-307.7.J Table of Parking Requirements, shall be subject to Planning Board approval under this Article, whether or not a structure is involved. Additionally, any change of use outside District or Plaza Commercial to Eating and Drinking Places, Convenience Stores, and use with a thru, or Sole Source Pharmacy, shall also be subject to Planning Board approval regardless of how many parking spaces are required. In granting, denying and/or imposing conditions, the Planning Board shall review a scaled drawing of sufficient detail for consideration of the following: location, character and nature features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; frequency and number of vehicles accessing the site; pedestrian circulation; lighting; noise; hours of operation; availability of necessary public services; compliance with applicable requirements of all City Ordinances and standards to the greatest practical extent. The Planning Board may impose any reasonable conditions in the interest of public safety and to minimize impact on adjacent properties and neighborhoods. The Planning Board may request additional information as deemed necessary. Eff: 03/16/05

ONE WAY TO REQUIRE CONTENT OF APP.

A new structure permitted for residential use, which undergoes a change of use to a non-residential or mixed use within five (5) years from the date of the original building permit, shall be subject to full Site Plan Review by the Planning Board under this section. This provision shall not apply to legally established Home Occupations. Eff: 05/10/06

Notice Required. All property owners within three hundred (300) feet of the lot lines of any proposed change of use under this section shall be notified in writing at least ten (10) days prior to consideration of the change of use by the Planning Board. Submission deadlines shall be the same as for any Site Plan Review. Eff: 03/16/05

NOTICE & SPECIAL DEFINITION OF ABUTTERS

Sec. 16-201.1 Exceptions to Review Requirements

1. New Structures or additions or changes in use will not be reviewed under the Site Plan Review Ordinance if in any five year period the new structure or new addition or the structure within which a change of use is to be located is:

a)
b)
c)

- a. Under 600 square feet in gross floor area and does not exceed 20 feet in height or
- b. Located in the City of Rockland Industrial Park.

much better than making a list of exceptions.

2. Structures or additions will not be reviewed under the Site Plan Review Ordinance if the structure replaces another structure partially or totally destroyed by fire, explosion, or other mishap, and is to be rebuilt the same size (building footprint and height) at the same location and elevation, and no other changes are required to the site. In the case of such replacement structure, the proper permits from the Code Office are required even though Site Plan Review may no be mandatory, and the permits must be applied for within six months after the partial or total destruction of the original structure or addition. If ordinance or Code provisions require, (or the applicant chooses to make) changes to the size, height or elevation of the building or changes to the site, or to its use, the project shall be reviewed as a new structure under the Site Plan Review Ordinance. Eff: 10/9/91

Sec. 16-202 Procedure

The following procedure shall govern the submission and review of all mandatory site plans:

1. Statement by Applicant. The applicant shall submit to the Planning Board a statement indicating the name and address of the owner of the parcel proposed for development, and the estimated cost of the development. The statement shall also include an estimate of the time required to complete the proposed development. The statement shall be accompanied by the payment of a fee as prescribed in Chapter 11, Section 11-403, Fee Schedule, to cover the various costs to the City in reviewing the site plan applications may include a public hearing. Eff: 8/12/87

2. Site Plan. Every applicant applying for approval under this Article shall submit to the City Planner eight (8) copies of the site plan of the proposed development which shall be prepared in accordance with Sec. 16-203 herein. The City Planner shall retain one (1) copy, forward five (5) copies to the Board, and one (1) to the City Manager. Eff: 6/7/89

3. City Manager's Comments. Within ten (10) days after receipts of the site plan, the City Manager or his designee shall submit written comment to the Planning Board.

4. Deadline for Commission Action. Within thirty (30) days after receipt of a complete site plan and required statement (or such further time as may be agreed upon by the parties), the Planning Board shall in writing approve, approve upon conditions