

SUMMARY OF SUMNER'S
SITE PLAN REVIEW
ORDINANCE

Purpose

This Ordinance will provide the Town with the means to review development proposals to determine if such development will adversely affect the Town and to prevent adverse impact. (See Section I. and Section II. A., B., and C.)

Briefly, the Ordinance works in the following fashion:

1. Developers of (a) commercial, industrial, institutional or recreational buildings, structures or uses; (b) campgrounds; (c) mobile home parks; and (d) multiple family dwellings are required to submit a Site Plan Application to the Planning Board for review. (See Section III. A., B., C. and Section IV. A.)
2. The Planning Board reviews the application to determine if the proposal conforms to the minimum Performance Standards established in this Ordinance. (See Section V.) The Planning Board may hold a public hearing to aid in its review. (See Section IV. B. 3.)
3. Based on its review of the proposal's compliance with the standards of this Ordinance, the Planning Board approves, approves with conditions, or disapproves the application. (See Section IV. B. 4.)
4. A meeting of the legislative body (a town meeting) is held to act on those applications which the Planning Board has approved or approved with conditions. The legislative body shall approve, approve with those conditions imposed by the Planning Board, or disapprove the application. The town meeting vote constitutes final action on those applications which the Planning Board has approved or approved with conditions. Applications disapproved by the Planning Board need not go to town meeting, as disapproval by the Planning Board constitutes final action on the application. (See Section IV. B. 5. & 6.)
5. No building notification certificate or plumbing permit shall be issued for any use or development covered by this Ordinance until a Site Plan Application has received final approval. (See Section II. B. 2.)
6. A performance bond may be required of the applicant. (See Section VI. B.)

PLEASE NOTE:

1. This Ordinance does not apply to single- and two-family dwellings and their accessory uses, nor does it apply to agricultural land management practices or forest management activities. (See Section III. D.)
2. Subdivisions are reviewed under provisions of state law and are not covered by this Ordinance.
3. This is not a zoning ordinance. It does not restrict certain uses to certain districts, nor does it require different standards for different uses. Instead, this Ordinance establishes minimum performance standards for all activity to which it applies.

SITE PLAN REVIEW ORDINANCE

SECTION I. PURPOSE

Large-scale development or major land use change have a profound effect upon the cost and efficiency of municipal services and upon the environment of the Town of Sumner. Unplanned development may result in overcrowded schools and highways, increased costs of municipal services, degrading of the air and water quality, as well as the general health, safety and welfare of the residents.

The purpose of this Ordinance is to insure an orderly growth of the Town and to minimize the effects of that growth when caused by development, by way of, but not limited to: commercial, industrial, retail or institutional buildings, structures and/or uses, multiple dwellings of three (3) or more attached units, campgrounds and mobile home parks.

SECTION II. AUTHORITY AND ADMINISTRATION

A. Authority

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30, M.R.S.A. Section 1917.
2. This Ordinance shall be known as the "Site Plan Review Ordinance" of the Town of Sumner, Maine, adopted and effective by vote of the Town Meeting on March 17, 1980, and August 1, 1988.

B. Administration

1. The Planning Board of the Town of Sumner shall administer this Ordinance.
2. No building notification certificate or plumbing permit shall be issued by the municipal officers or code enforcement officer for any use or development within the scope of this Ordinance until a Site Plan of Development Application has been approved by the Planning Board.

SECTION III. APPLICABILITY AND EXEMPTIONS

- A. This Ordinance shall apply to all development proposals for new construction of, demolition of, change in use of, substantial enlargement of, and/or alteration of: (1) commercial, industrial, institutional and recreational buildings, structures and uses;(2) campgrounds; (3) mobile home parks; (4) multiple family dwellings consisting of three or more attached dwelling units; and (5) their accessory uses and structures.
- B. This Ordinance shall apply to development proposals for conversion of single- or two-family dwelling units into any of those uses detailed in Section III. A.
- C. Land use for any liquid or solid waste disposal either as a primary purpose or as a related aspect of the development (Accessory Use).

- D. The following developments and land uses are exempt from all provisions of this Ordinance:
1. Construction of detached single- or two-family dwellings, and customary out-buildings or structures by, and for, the private use of the family(s) residing on the property on which the buildings are to be located.
 2. Construction of barns, stables, and other agriculturally related buildings or structures by, and for, the private use of the family(s) residing on the property on which the buildings are to be located.
 3. All non-structural uses of land for agricultural land management practices.
 4. All non-structural uses of land for forest management activities.
 5. The solid waste disposal facility operated by the Town of Sumner for public use.
- E. If it is determined that an application is defined as a subdivision by Title 30, M.R.S.A. Section 4956, the applicant may, at the Planning Board's discretion, be exempt from the provisions of this Ordinance, but must comply with the Town of Sumner's Subdivision Ordinance.

SECTION IV. SITE PLAN CONTENT AND APPLICATION PROCEDURE

- A. The Site Plan of Development Application shall include as a minimum:
1. A map or maps prepared at a scale of not less than one (1) inch to 50 feet and shall include where applicable:
 - a. name and address of the applicant or his authorized agent, name of proposed development, and any land within 500 feet of the proposed development in which the applicant has a title or interest;
 - b. existing soil conditions as described by either a soil scientist, geologist, engineer or S.C.S. medium intensity soil surveys;
 - c. municipal tax maps and lot numbers, if available, and names of the abutting land owners;
 - d. perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel, date of survey, and total acreage. Areas within 200 feet of the proposed development site shall be included;
 - e. existing and proposed location and dimensions of any structures, utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way;
 - f. location, ground floor area and elevations of buildings and other structures on parcels abutting the site;
 - g. if the site is not to be served by a public sewer, location of test pits for on-site soils evaluation;
 - h. location and dimensions of existing and proposed on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, and design of access and egress of vehicles to and from the site, including street and curb lines;

- i. landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screenings; and
 - j. topography indicating contours at intervals of not more than 10 feet in elevation unless otherwise specified by the Planning Board.
2. If the site is not to be served by a public sewer, an on-site soils investigation report by a Department of Human Services licensed site-evaluation shall be provided. (The report shall contain the types of soil, location of the test site, and proposed location and design of the best practical subsurface disposal system for the site);
 3. If the site is to be used for any liquid or solid waste disposal or processing, a report and design by a Registered Professional Engineer including statements on soil suitability, and adequacy of the proposed method(s) of disposal. Particular concern should be given to safety from contamination of ground water supplies. Additionally, all applicable state and federal permits shall be included.
 4. A written statement by the applicant that shall consist of:
 - a. evidence by the applicant of his title and interest in the land 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/or 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 disposal of all waste material, solid and liquid;
 - f. erosion and sedimentation control plan;
 - g. copies of letters to the abutting landowners, selectmen, road commissioner and fire chief notifying them of the proposed development;
 - h. statement of financial capacity which should include the names of the sources of the financing parties, including banks, government agencies, private corporations, partnerships and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both;
 - i. list of applicable local, state, federal ordinances, statutes, laws, codes and regulations such as, but not limited to Great Pond Act, Site Location of Development Act, Safe Drinking Water Act, and Clean Water Act;
 - j. the applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water and streets;
 - k. a statement from the Fire Chief as to the availability of fire protection services. The statement should identify unusual fire hazards inherent in the development with plans for minimizing and coping with such hazards;

- l. a statement from the Town Civil Emergency Preparedness Office, prepared in conjunction with the State Civil Emergency Preparedness Department, the Department of Environmental Protection and the Department of Human Services, as appropriate, identifying significant chemical and/or toxic material hazards with plans for minimizing and coping with accidents involving such materials;
- m. a statement from either the Road Commissioner or Selectmen that the proposed road or street construction will meet town specifications; and
- n. an estimate of the date when construction will start and when the development will be completed.

B. Application Procedures

1. The application shall be filed with the Planning Board for review and accompanied by a fee of \$50 per building or dwelling unit, whichever is more, for processing the application. Upon receiving the application, the Planning Board shall notify the applicant in writing within 30 days either that the application is complete or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development. A review escrow account equal to 2% of the estimated project cost shall be deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. Those monies deposited by the developer and not spent by the Planning Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.
2. In conducting its review, the Planning Board will be guided by the provisions of the Comprehensive Plan for the Town of Sumner and the provisions of Section VI. below;
3. 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 area-wide circulation. The abutting landowners shall be notified of the hearing by certified mail. Public hearing by the Planning Board shall be conducted according to the procedures outlined in Title 30, M.R.S.A. Section 2411, Subsection 3(A), (B), (C), (D), and (E).
4. Within 30 days of the public hearing or 60 days of receiving the completed application, the Planning Board shall either approve, 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.

5. Within 60 days of the public hearing or 60 days of receiving the completed application, the Town Meeting (legislative body) shall either approve or disapprove the application. The legislative body may only approve with those conditions applied by the Planning Board.
6. Within seven (7) days of the final decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

SECTION V. PERFORMANCE STANDARDS

- A. The following specific standards will be used to review applications 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 Rural, Open-Land Character of the Town. The rural, open-land character of the Town shall be preserved in its natural state insofar as practicable 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 uses.
 2. Relationship of the Proposed Buildings and Structure to the Environment. Proposed buildings and structures shall be related harmoniously to the terrain and to existing buildings in the vicinity (which have a visual relationship to the proposed buildings). When proposed buildings and/or structures are to be located in or near built-up areas in town, the proposed land-use will in general conform to the existing land-use in that area. Special attention shall be paid to the bulk, location and height of the building and structures 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 control of access points including site distances, turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road systems.
 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 provision 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. 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.
 7. Special Features of the Development. Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audiovisual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.
 8. Setback. Setback of proposed buildings and structures from existing abutting buildings and structures, public and private roads and ways, streams and water supplies will be sufficient to preserve the open land character of the town, and enhance the public health, safety and welfare.
 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, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
 12. Financial Capacity. The developer has adequate financial and technical capacity to meet the above standards.
- B. The following general standards will also be used by the Planning Board under the constraints detailed in Paragraph A above. An approval will require that in the judgment of the Planning Board the proposed development or land use:
1. Will not result in undue water pollution. In making this determination, the Board shall at least consider: the elevation of land and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support proposed land use including “waste” disposal; the slope of the land and its effect on effluents; the availability of streams for surface runoff; the effect on aquifers and aquifer recharge areas; the applicable federal, state and local health and water resources laws and regulations.
 2. Will not result in undue air pollution. In making this determination, it shall consult state authorities to determine applicable air quality laws and regulations.
 3. Has sufficient water available for the reasonably foreseeable needs of the development or use, and will not cause unreasonable burden on an existing water supply if one is to be utilized.

4. 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.
5. Will provide for adequate waste disposal.
6. Will not have an undue adverse affect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
7. Whenever situated in whole or in part within 250 feet of any pond, lake or river will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
8. Will provide for the general health and safety and welfare of the community.

SECTION VI. GENERAL PROVISIONS

- A. The Planning Board may modify or waive any of the application requirements when the Planning Board determines that because of the special circumstances of the site plan such requirements would not be applicable or would be an unnecessary burden upon the applicant and will not adversely affect the abutting landowners and the general health, safety and welfare of the Town.
- B. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- C. All construction performed under the authorization of a building certificate issued for development within the scope of this Ordinance shall be in conformance with the approved site plan.
- D. Many communities have added provisions to the Site Plan Review Ordinance which state if the project is not begun within two years of approval, the approval becomes void. This provision is to reduce the number of old approvals on the books.

SECTION VII. VIOLATION, ENFORCEMENT AND FINES

- A. Violation and Enforcements. The Planning Board chairman or the selectmen upon finding that any provision of this Ordinance is being violated are authorized to institute legal proceedings to enjoin violations of this Ordinance.
- B. Fines. A person who violates the provisions of this Ordinance shall be guilty of a civil violation and on conviction shall be fined not less than \$100 or more than \$2500. Each day a violation continues shall also be liable for court cost and reasonable attorney fees incurred by the municipality.

SECTION VIII. VALIDITY AND SEVERABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. Validity and Severability. 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.

SECTION IX. APPEALS

- A. If the application is not approved or is granted approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, and the abutting landowner or aggrieved party may appeal the decision to Superior Court in accordance with Rule 80 B.

SECTION X. AMENDMENTS

- A. This Ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by 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.

SECTION XI. DEFINITIONS

- A. Agricultural Land-Management Practices. Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.
- B. Accessory Use or Structure. A subordinate use of a building, other structure, or land, or a subordinate building or structure.
1. Whose use is customary in connection with the principal building, structures or use; and
 2. Whose use is clearly incidental to the use of the principal building, structure or use;
and
 3. Which is located on the same lot with the principal building, structure or use or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

- C. Alteration. Structural changes, rearrangement, change of location or addition to a building, or structure, other than repairs and modifications in building equipment, involving more than 25% increase in the overall floor space or bulk of the building or structure at any time since the effective date of this Ordinance.
- D. Substantial Enlargement. An expansion of the land area of the development site by more than 25% at any time or in total since the effective date of this Ordinance.
- E. Change in Use. The employment of new materials, processes, sale of goods or the provisions of new services not normally associated with the previous use.
- F. 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.
- G. Campground. A tract or parcel of land intended for the placement of recreational vehicles, tents and utility and service buildings.
- H. Commercial. Connected with the buying or selling of goods and services or provision of facilities for a fee.
- I. Dwelling Unit. A room or group of rooms designed and equipped exclusively for use as living quarters for a person or people including provisions for living, cooking and eating.
- J. Forest Management Activities. Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, harvesting, regeneration, and other similar associated activities, but not the construction, creation or maintenance of land management roads.
- K. Industrial. Connected with the assembling, fabricating, finishing, manufacturing, packaging or processing of goods and materials or the extraction of minerals.
- L. Institutional. A building devoted to some public, educational, charitable, medical or similar purpose.
- M. Persons. Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.
- N. Mobile Home Parks. A tract or parcel of land designed or planned for the placement of two or more mobile homes or other similar manufactured housing units.
- O. Structure. Anything constructed, erected or placed on the ground or attached to something on the ground which is permanent, temporary or mobile. Structure(s) include, but, are not limited to, building(s), mobile homes, recreational vehicles, piers and floats and storage and processing facilities. Boundary walls, fences and flag poles are not considered structures.

- P. 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 or intended to be carried on in a building or other structure or on a tract of land.
- Q. Waste Disposal Site. A tract of land used for the private disposal by any means of any waste material including liquids, solids, sludge, etc., whether such use is a primary or accessory use.