

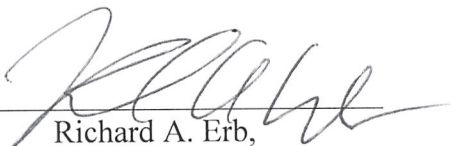
Town of St. George, Maine

SITE PLAN REVIEW ORDINANCE

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Amended	11/07/95
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A true copy

Attest: _____


Richard A. Erb,
Town Clerk

SITE PLAN REVIEW ORDINANCE
TOWN OF ST. GEORGE, MAINE
Table of Contents

Section I	Purpose
Section II	Authority & Administration
Section III	Applicability
Section IV	Site Plan Content and Application Procedure <ul style="list-style-type: none">A. Pre-application ProcedureB. Formal Site Plan Review ApplicationC. Application Submission and Review Procedures
Section V	Performance Standards
Section VI	Certificate of Compliance
Section VII	Validity and Separability and Conflict with Other Ordinances
Section VIII	Amendments
Section IX	Performance Guarantees <ul style="list-style-type: none">A. Guarantee RequiredB. Types of GuaranteesC. Contents of GuaranteeD. Completion of Required ImprovementsE. Release of Performance GuaranteeF. Limitation of ApprovalG. Minor Changes to Approved PlansH. Amendments to Approved Plans
Section X	Waivers <ul style="list-style-type: none">A. Submission RequirementsB. Waiver of Performance StandardsC. Waivers Conditionally Granted
Section XI	Appeals
Section XII	Violations, Enforcement and Fines <ul style="list-style-type: none">A. Violations and EnforcementB. Legal ActionC. Fines
Section XIII	Definitions

SITE PLAN REVIEW ORDINANCE

I. PURPOSE

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

II. AUTHORITY AND ADMINISTRATION

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

III. APPLICABILITY

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

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

IV. SITE PLAN CONTENT AND APPLICATION PROCEDURE

A. Pre-Application Procedure

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

- B. The Formal Site Plan Review Application shall include a site plan and a written statement describing the proposed project in detail.

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

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application fee.
- (3) Eight (8) copies of written materials plus eight (8) site plans showing the proposed development.

1. A site plan prepared at a scale of not less than one inch to fifty feet and may include one or more of the following at the discretion of the Planning Board.
 - a. name, address, and other contact information of the applicant or his/her authorized agent (including a description of the applicant's legal structure and a corporate organizational chart of the applicant and its affiliates); name of proposed development and any land within 500 feet of which the applicant has title or interest;
 - b. location of development on the site, illustrating existing and proposed improvements, and location of property boundaries and required setbacks.
 - c. location of all water courses, brooks, streams and wetland areas within the site;
 - d. existing soil conditions and/or types;
 - e. municipal tax maps and lot numbers and names of landowners within 300 feet from the property lines;
 - f. graphic scale, true north indicator and total acreage of the development;
 - g. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights of way within the development;
 - h. location of buildings, other structures, wells, sewer and septic systems, water bodies, wetlands and roads within 300 feet of the developed area;
 - i. if the site is not served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided. The report shall contain the types of soil, location of the test pits and proposed locations and design of the best practical subsurface disposal system for the site;
 - j. location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets and curb and sidewalk lines;

- k. landscape plan showing location, type and approximate size of plantings, including areas proposed to be cleared of vegetation and location and dimensions of all existing and proposed fencing and screening;
 - l. topography indicating contours at 10' intervals or as specified by the Planning Board.
 - m. erosion control plan – show what measure will be taken to prevent soil erosion and water siltation off the proposed site;
2. A written statement by the applicant that may consist of one or more of the following at the discretion of the Planning Board.
- a. evidence by the applicant of his/her title and interest in the land for which the application covers, including, for any land not owned by the applicant, a copy of each lease, license easement, and other right to use the land for the purposes relating to the application;
 - b. a description of the proposed uses to be located on the site, including quantity and type of residential unit, and hazardous materials, if any;
 - c. total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
 - d. summary of existing and proposed easements, restrictions and covenants placed on the property;
 - e. method of solid and sewage waste disposal;
 - f. erosion and sedimentation control plan;
 - g. statement of financial capacity, including audited financial statements of the applicant, as well as for such affiliates of the applicant as the applicant wishes the Planning Board to consider in making its determination of financial capacity under section V(A)(17), in each case for the three most recent fiscal years (or such shorter period as the applicant and the relevant affiliates have been in existence)
 - h. the applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water and streets;
 - i. an estimate of the date when construction will start and when the development will be completed;
 - j. photographs of the existing conditions at the proposed site and a set of the same photographs with the proposed improvements overlaid;

- k. proof of liability insurance, issued by an insurer licensed to do business in the State of Maine and having an A.M. Best financial strength rating of A or better, in an amount that the Planning Board determines to be commercially responsible for projects of similar size and complexity, and otherwise on terms (including an endorsement naming the Town of St. George as additional insured) reasonably satisfactory to the Planning Board; and
 - l. any additional information requested by the Planning Board to determine whether the requirements of this ordinance (including Section V) and, if applicable, the requirements of the Shoreland Zoning Ordinance (including sections 15 and 16 thereof) are satisfied.
3. In addition to the requirements in section IV(B)(1) and (2), an application relating to associated facilities of an offshore energy project shall include the following, unless the Planning Board determines otherwise:
- a. A reasonably detailed plan and time line for construction of the associated facilities.
 - b. (i) A listing of all licenses, permits, and other approvals required for the development from any agency of the United States, or and subdivision thereof; (ii) at the time the site plan application is filed, a copy of each such license, permit, and approval that has been obtained at that time; and (iii) during the pendency of the site plan application, a copy of each such license, permit, approval and application therefor, promptly after it is obtained or filed.
 - c. A plan for the removal of the associated facilities in accordance with section V(B)(6) and an estimate of the cost thereof, all in reasonable detail.
 - d. Such other relevant professional studies, reports, certifications and approvals as the Planning Board reasonably requests to establish compliance with this ordinance and and the Shoreland Zoning Ordinance, if applicable.

C. Application Submission and Review Procedures

1. The application shall be filed with the Code Enforcement Officer for review by the Planning Board and accompanied by a fee to be set by the Select Board for processing the application. Upon receiving the application, the Planning Board shall notify the applicant either that the application is a complete application, or if the application is incomplete, the 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 and begin its review of the proposed development.

2. The Planning Board may hold a public hearing within 30 days (or 90 days in the case of an application for associated facilities of an offshore energy project) of the filing of the completed application at which time public comments will be heard. 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 and will be posted on the Town website. The abutting landowners within 300 feet from the property lines shall be notified of the hearing by first class mail.

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

3. The Planning Board may hold an on-site inspection of the site to review the existing conditions, verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall take final action on the application as specified in (7) may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection.
4. Within 30 days (or 90 days in the case of an application for associated facilities of an offshore energy project) of the public hearing or 60 days (or 180 days in the case of an application for associated facilities of an offshore energy project) of receiving the application the Planning Board shall either approve or approve with conditions or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
5. Within seven (7) days of reaching their decision, the Planning Board shall notify the applicant in writing of any action and the reason for taking such action.

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

All notices provided for by this Section shall be mailed to the address of Town record and posted on the Town's website.

6. The Planning Board may obtain professional services from such service providers as it may select, to advise it in connection with its review of any application, including but not limited to legal, financial, engineering, scientific, and land-use services. Such services may address the same subjects covered in connection with the application by the applicant or its advisors including the requirements of section V and the Shoreland Zoning Ordinance, if applicable. The applicant shall pay or reimburse the Town of St. George for the cost obtaining such services, and, if required by the Planning Board, shall deposit with the Town of St. George from time to time funds in an amount determined by the Planning Board to be necessary to cover the likely cost thereof.
7. If any of the time periods specified in this section IV(C) are inconsistent with applicable state law (such as, for example, section 480-HH(14) of title 38 of the Maine Revised Statutes, relating to offshore wind energy demonstration projects), the time periods provided by state law shall govern.

V. PERFORMANCE STANDARDS

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

1. **Preserve and Enhance the Landscape:**
The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land-use.
2. **Relationship of the Proposed Buildings to the Environment:**
The proposed development shall reflect the natural capabilities of the site to support development. Proposed structure shall be related harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitats for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers along with areas identified or listed in the Town of St. George Comprehensive Plan must be maintained and preserved to the maximum extent.
3. **Vehicular Access:**
The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and controls of access points including site distances (Maine Department of Transportation standards), turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road system. Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development.
4. **Parking and Pedestrian 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.

(1) Parking stalls and aisle layout must conform to the following standards.

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

(2) In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.

(3) Parking areas for non-residential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.

(4) Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on accent walkways, or damage landscape materials.

5. Surface Water Drainage:

Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream properties, soil erosion and public or private streets and existing storm drainage system. On-site absorption and detention and/or retention of run-off waters shall be utilized to minimize discharges from the site.

All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.

The design of the storm water drainage system must provide for the disposal of storm water without damage to adjacent properties, downstream, soils, and vegetation.

The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

6. Existing Utilities:

The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, Tenants Harbor Standard Water and Port Clyde Water Districts' facilities and other infrastructures.

7. Advertising Features:

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

- Site shall not have more than 2 signs.
- Signs cannot exceed 20 square feet per sign.

8. Special Features and Operations of the Development:

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

9. Exterior Lighting:

All exterior lighting shall be designed to be down shielded 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, public safety functions, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

12. Water/Air Protection:

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

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

13. Water Supply:

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

14. Soil Erosion:

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result. Soil erosion and sedimentation of watercourses and water bodies, wetlands and other environmentally sensitive areas shall be minimized by an active erosion control plan meeting the

requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

15. Sewage Waste Disposal:

Will provide for adequate sewage waste disposal according to the Maine subsurface wastewater disposal rules.

16. 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 or special waste must be done in accordance with the standards of these agencies. List all materials that will be stored on site.

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.

17. Financial/Technical Capacity:

The applicant may be required to demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

18. Shoreland Zone:

Whenever situated in whole or in part within the Shoreland, the applicant must demonstrate that the project will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

19. Flood Plain:

Whenever situated in whole or in part within the Town of St. George Flood hazard areas the applicant shall meet the standards as required by the Flood Plain Ordinance.

20. Lot Standards:

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

B. ASSOCIATED FACILITIES OF OFFSHORE ENERGY PROJECTS

In addition to the standards stated in Section V(A), the following standards are to be used by the Planning Board in judging applications for associated facilities of offshore energy projects and

shall serve as minimum requirements for approval of the application. The application shall be approved, unless in the judgement of the Planning Board the applicant is not able to meet any of these standards. In all instances the burden of proof shall include the production of evidence necessary for the Planning Board to review the application.

1. Town's Electrical Needs: The applicant shall use reasonable efforts so the design, construction, and location of the associated facilities (including the location of the point of landing and of related equipment) do not preclude the Town's residents, businesses, and municipal facilities from the ability to satisfy anticipated electrical capacity requirements over the life of the offshore energy project.
2. Cable to be buried: Electrical cable that is part of associated facilities of an offshore energy project shall be buried to a depth of 18 inches from the point where it meets the land to the point where it connects to a utility pole, vault, or other structure, or to a transformer or other item of electrical equipment, except that (a) in places where ground conditions do not make it reasonably practical for it to be buried to that depth without resorting to blasting such cable may be buried to a depth sufficient for vegetation to take root, and (b) where that is not possible such cable shall be permanently encased in concrete or the like, which shall be covered by sufficient soil to allow vegetation to take root. Land disturbed to bury such cable and the surface covering such cable shall be regraded to return the land to its original contour to the extent reasonably practicable. If any vegetation in the shoreland zone is removed or disturbed by such burial and covering, the land shall be revegetated in accordance with the section 15(S) of the Shoreland Zoning ordinance. The Planning Board may require the installation of signage identifying the location of buried cable if it considers it advisable on the basis of public safety.
3. Setback requirements: Electrical cable that is part of associated facilities of an offshore energy project shall not be subject to the setback requirements of section V(A)(20)(d)(1) (2), or (3). Other associated facilities that are part of an offshore energy project shall be subject to the applicable setback requirements of this ordinance.
4. Decommissioning: If the authority from the State of Maine to operate an offshore energy project expires or is terminated, or if the associated facilities of an offshore energy project are not used for 12 consecutive months to transmit or distribute electricity, the Town of St. George may give written notice to the owner of the associated facilities requiring removal of specified portions of the associated facilities. The specified portions shall be dismantled and removed, in accordance with the decommissioning plan included in the application, at the expense of the owner of the associated facilities within twelve months after receipt of such notice, unless state law imposes a different schedule. The following requirements shall apply to the dismantlement and removal of the associated facilities:
 - (a) Unless state law provides otherwise, in determining which portions of the associated facilities shall be required to be removed, the Town shall consider the extent to which the individual components of the associated facilities will continue to serve a useful purpose or are capable of being usefully repurposed. In determining whether to require the removal of buried cable, the Town shall balance the cost of its removal against the consequences to the Town and its residents of leaving it in place (in terms

of both safety and appearance), whether or not the cable is proposed to be or capable of being repurposed.

- (b) Unless state law provides otherwise, land disturbed in effecting such removal shall be regraded to return the land to its original contour to the extent reasonably practicable. If any vegetation in the shoreland zone is removed or disturbed by such removal, the land shall be revegetated in accordance with section 15(S) of the Shoreland Zoning Ordinance.
- (c) The provisions of this section V(B)(4) shall be binding on and enforceable against the applicant and each subsequent owner of the associated facilities of an offshore energy project. The applicant and each such subsequent owner shall require any transferee of such associated facilities to expressly assume those obligations in a writing reasonably satisfactory to the Town of St. George, but no failure to do so shall affect the transferee's obligations.
- (d) If the owner fails to comply with its obligations under this section V(B)(4), the Town, in addition to its other remedies, may itself carry out or contract for the performance of those obligations at the expense of the owner, and the owner's obligation to pay to pay the cost thereof will be secured as provided in section V(B)(5). The owner will also pay the Town's reasonable attorneys' fees and costs in enforcing the obligations under section V(B)(4), and the owner's obligation to do so will also be secured as provided in section V(B)(5).

5. Security for Decommissioning Obligations:

- (a) If the applicant provides funds (in escrow or otherwise), a bond, or other security for its obligation to the State of Maine, the United States, any other government, or any agency of them, to secure the applicant's obligation with respect to the decommissioning of an offshore energy project, the applicant (if the government or agency so agrees) will include provisions in the security arrangement, reasonably satisfactory to the Planning Board, to the effect that (i) the arrangement secures the obligations under section V(B)(4) with respect to the removal of the associated facilities, and (ii) the Town of St. George may directly enforce the security arrangement against the escrow holder, bonding company, or other person obligated under the arrangement as it relates to the obligations under section V(B)(4).
- (b) If section V(B)(5)(a), does not apply, the applicant shall provide a performance bond or other form of security specified by the Planning Board to secure performance of the obligations under section V(B)(4). The amount of the security shall be 150 percent of the estimated decommissioning costs, or such lesser amount as the Planning Board shall approve, and the terms of the security instrument shall be reasonably satisfactory to the Planning Board. The issuer of the security instrument shall be an insurance company licensed to do business in the State of Maine and having an A.M. Best financial strength rating of A or better, or a bank or other financial institution with a long-term credit rating of A or better from a nationally recognized rating service.

VI. CERTIFICATE OF COMPLIANCE

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

VII. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

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

VIII. AMENDMENTS

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

IX. PERFORMANCE GUARANTEES

A. Guarantee Required

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

B. Types of Guarantees

The following types of guarantees are acceptable.

1. Certified check paid to the town or a savings account or certificate of deposit naming the town as owner.
2. A performance bond payable to the town issued by a surety company.
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project.
4. A conditional agreement, if acceptable in lieu of a performance guarantee, shall be endorsed by the Planning Board. It shall provide that no occupancy of the property may take place until the completion of all street grading, paving, utilities and other improvements for the public benefit.

C. Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each phase of construction, provisions for inspection of each phase of construction, provisions for the

release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the town shall have access to the funds to finish construction.

D. Completion of Required Improvements

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

E. Release of Performance Guarantee

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

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

F. Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twenty-four (24) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2) six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

G. 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.

H. 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, constitutes an amendment to the plan and is subject to review and approval by the Planning Board.

X. WAIVERS

A. Submission Requirements

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

B. Waiver of Performance Standards

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

C. Waivers Conditionally Granted

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

XI. APPEALS

An appeal from any action or failure to act by the Planning Board or Code Enforcement Officer under this ordinance shall be governed by the Town's Board of Appeals Ordinance.

XII. VIOLATIONS, ENFORCEMENT AND FINES

A. Violations and Enforcement

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

B. Legal Action

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

C. Fines

Any person who continues to violate a provision of this Ordinance after receiving written notice to correct the situation shall be subject to penalties as outlined at 30-A M.R.S.A. Section 4452.

XIII. DEFINITIONS

ABUTTING PROPERTY: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

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

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

AGRICULTURAL LAND MANAGEMENT PRACTICES: Those devices and procedures utilized in the cultivation of land to further crop and livestock production.

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

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

ASSOCIATED FACILITIES: Elements of an offshore energy project, other than its generating facilities, that are necessary to the proper operation and maintenance of the project, including but not limited to cables, poles, transformers and other electrical equipment, connection vaults, buildings and other structures, and access roads. The term does not include (1) equipment that is part of the electrical grid of a transmission and distribution utility licensed by the Maine Public Utilities Commission or (2) anything located in submerged lands.

BED AND BREAKFAST: Private residences that rent up to five (5) rooms that contain no kitchen facilities and rent nightly or weekly.

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

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

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

CHANGE FROM ONE CATEGORY OF NON-RESIDENTIAL USE TO ANOTHER CATEGORY OF NON-RESIDENTIAL USE: A change in the type of occupancy of a non-

residential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

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

COMMERCIAL USE: The use of lands, buildings, or structures, other than a “home occupation”, defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

COMPREHENSIVE PLAN: Any part or element of the overall plan or policy for development of the Town as defined in 30, M.R.S.A. 4961.

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

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

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

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

ELECTRICAL GRID: Cables, poles, transformers and other electrical equipment, connection vaults, structures, and access roads, that collectively constitute an electrical transmission or distribution system that carries electricity other than, or in addition to, electricity generated by an offshore energy project.

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

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

FISHERIES, SIGNIFICANT FISHERIES: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the Town's Comprehensive Plan.

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

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

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

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

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

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

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

INDUSTRIAL: The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

INSTITUTIONAL: A building devoted to some public educational, charitable, medical or similar purpose.

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

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

MULTI-FAMILY RESIDENTIAL: A residential structure containing three or more residential dwelling units.

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

OFFSHORE ENERGY PROJECT: A project for the generation or transmission of electrical energy from generating facilities in, over, or on the coastal waters of the State of Maine (including islands located in those waters), whether from conventional, nuclear, or renewable sources.

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

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

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

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

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

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

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

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

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

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

SITE PLAN: A plan showing the proposed layout of buildings, structures, roads, parking, landscaping and other site improvements.

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

SUBMERGED LANDS: The meaning given to that term in section 1801(9) of title 12 of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

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

TRANSMISSION AND DISTRIBUTION UTILITY: The meaning given to that term in section 102(20-B) of title 35A of the Maine Revised Statutes (as it may be amended from time to time, and any replacement of that provision).

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.

VARIANCE: A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting

a variance. The crucial points of a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

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

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the Town's Comprehensive Plan.