

TOWN OF HARPSWELL
SITE PLAN REVIEW ORDINANCE

Effective April 26, 1983	Article 4
Amended on November 14, 1988	Article 10
Amended on March 6, 1999	Article 28
Reenacted on March 11, 2000	Article 20
Amended on August 23, 2001	Article 4,5,6,7
Amended on March 16, 2002	Article 56
Amended on November 23, 2002	Article 6
Amended on March 8, 2003	Article 63,64,65,71
Amended on May 20, 2004	Article 2, 10
Amended on March 10, 2007	Article 22, 23, 24
Amended on March 20, 2010	Article 12
Amended on March 12, 2011	Article 13
Amended on June 12, 2012	
Amended on March 15, 2014	Article 5
Amended on June 8, 2021	Article 3
Amended on June 15, 2024	Article 4

The Site Plan Review Ordinance adopted on April 26, 1983, as subsequently amended, was repealed and replaced by this ordinance.

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THIS UNOFFICIAL TABLE OF CONTENTS IS NOT A PART OF THE ORDINANCE AND IS PROVIDED FOR CONVENIENCE ONLY.

SECTION 1. PURPOSE

The site plan review provisions set forth in this Ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily development is designed and developed in a manner which assures that adequate provisions are made for traffic and pedestrian safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the development harmoniously into the fabric of the community.

SECTION 2. AUTHORITY

This Ordinance is adopted under powers granted to the Town by 30-A MRSA § 3001, as may be amended from time to time, and the Revised Comprehensive Plan of Harpswell.

Throughout this Ordinance there are "Citizen's Notes". These notes shall not be considered part of this Ordinance as adopted by the Town, but shall only be considered as aids for citizens to use this Ordinance and as guides to the intent of ordinance provisions and their proper interpretation.

SECTION 3. APPLICABILITY

3.1. This Ordinance applies to the following activities wherever they occur in the Town:

- 1) The construction or placement of any new structure for a nonresidential use, including accessory structures.
- 2) The expansion of an existing nonresidential structure including accessory structures that increase the total floor area.
- 3) The conversion of an existing structure, in whole or in part, from a residential use to a nonresidential use, except for home occupations.
- 4) The establishment of a new nonresidential use, or an expansion of an existing non-residential use, except for those set forth in Section 3.2, even if no structures are proposed, including uses such as gravel pits, cemeteries, golf courses, campgrounds, and other nonstructural nonresidential uses.
- 5) The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the Planning Board determines that the new use changes the basic nature of the existing use such that it increases the intensity of the on- or off-site impacts that are the subject of the standards and criteria of site plan review described in Section 15 of this Ordinance.
- 6) The construction or expansion of paved areas or other impermeable surfaces, including walkways, access drives, and parking lots involving an area of more than one thousand (1000) square feet within any three (3) year period for nonresidential uses.
- 7) Construction or expansion of structures for animal husbandry.
- 8) If the Planning Board determines pursuant to 30-A M.R.S.A. § 4402(6), as it may be

amended from time to time, that this Site Plan Review Ordinance provides for a review and approval process that is at least as stringent as that provided by the Subdivision Ordinance, then the Planning Board shall review applications for approval of multi-unit residential uses and their accessory structures under this Ordinance. This Ordinance applies to the following activities whether the creation of the dwelling units is accomplished by sale, lease, development or otherwise:

- a) The construction of a residential structure containing three (3) or more dwelling units (a multi-unit residential use).
 - b) The modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
 - c) The conversion of an existing nonresidential structure, in whole or in part, into three (3) or more dwelling units within a five (5) year period.
- 9) Mobile Food Handlers that provide a seating area for customers

3.2. The following activities shall not require site plan review approval. Certain of these activities will, however, require the owner to obtain a building permit, plumbing permit or other state or local approvals:

- 1) The construction, alteration, or enlargement of a single family or two-family dwelling, including accessory structures.
- 2) The placement, alteration, or enlargement of a single manufactured dwelling or mobile home dwelling, including accessory structures on individually owned lots.
- 3) Agricultural activities.
- 4) Timber harvesting and forest management activities.
- 5) The establishment and modification of home occupations.
- 6) Yard sales that do not exceed 3 consecutive days and of which there are no more than 2 on one premise in a single calendar year.
- 7) Mobile Food Handlers that either (a) are exempt from obtaining a license under the Town's Mobile Food Handlers Ordinance, or (b) hold a valid license issued by the Board of Selectmen under the Town's Mobile Food Handlers Ordinance and do not provide a seating area for customers.

SECTION 4. EFFECTIVE DATE

The effective date of this Ordinance is March 11, 2000. This Ordinance repeals and replaces the Site Plan Review Ordinance that became effective on April 26, 1983, as amended.

SECTION 5. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the

expense of the person making the request. Notice of availability of this Ordinance shall be posted.

SECTION 6. SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

SECTION 7. 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 unless Federal or State law provides otherwise.

SECTION 8. AMENDMENTS

This Ordinance may be amended by majority vote of the Town. The effective date of an amendment shall be its date of enactment unless otherwise specified.

Amendments may be initiated by a majority vote of the Planning Board, by a majority vote of the Selectmen or by written petition signed by a number of registered voters equal to 10% of Harpswell voters voting in the last gubernatorial election.

SECTION 9. LAND USE REQUIREMENTS

Except as this Ordinance specifies, no nonresidential structure or land shall be used or occupied, no nonresidential structures or part thereof shall be erected, constructed, expanded, moved, altered or replaced, and no nonresidential site improvement activities such as filling and earth moving, construction of parking areas, access and egress, or loading areas shall be undertaken except in conformity with the requirements of the Ordinance, unless, with respect to dimensional requirements, a variance is granted by the Board of Appeals or the use or activity is exempted from this Ordinance in Section 3, Applicability.

SECTION 10. NON-CONFORMANCE

Non-conforming structures, lots or uses subject to this Ordinance are subject to the non-conformance provisions of the Basic Land Use Ordinance or the Shoreland Zoning Ordinance, as applicable.

SECTION 11. ADMINISTRATION AND ENFORCEMENT

This Ordinance shall be administered and enforced in accordance with the administrative provisions of the Basic Land Use Ordinance, as may be amended from time to time and the Definitions Addendum, as may be amended from time to time.

SECTION 12. PERMITS REQUIRED

After the effective date of this Ordinance, no permit shall be issued by the Code Enforcement Officer for development within the scope of this Ordinance, and no person shall engage in any activity or use of land or structure within the scope of this Ordinance, unless and until a site plan

of the development has been reviewed and approved by the Planning Board in accordance with the provisions of this Ordinance.

SECTION 13. REVIEW PROCEDURES AND FEES

The Code Enforcement Office and Planning Board shall use the following procedures in reviewing applications for site plan review approval.

13.1. Pre-application

Prior to submitting a formal application, the applicant or his/her representative shall request a pre-application conference with the Planning Board or its designee. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under 1 M.R.S.A. § 302, as may be amended from time to time. No decision on the substance of the plan shall be made at the pre-application conference.

13.1.1. Purpose

The purposes of the pre-application conference are to:

- 1) Allow the Code Enforcement Officer and/or Planning Board or its designee to understand the nature of the proposed use and the issues involved in the proposal;
- 2) Allow the applicant to understand the development review process and required submissions;
- 3) Identify issues that need to be addressed in future submissions; and
- 4) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

In addition, the Planning Board may schedule a site inspection in accordance with subsection 13.2(5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

13.1.2. Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to discuss the following:

- 1) The proposed site, including its location, size, and general characteristics;
- 2) The nature of the proposed use and potential development;
- 3) Any issues or questions about existing municipal regulations and their applicability to the development; and
- 4) Any requests for waivers from the submission requirements.

13.2. Application Submission and Review Procedures

13.2.1. The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set

forth below. This material must be submitted to the Planning Office. The Planning Office shall give a dated receipt to the applicant.

***Citizen's Note:** The following procedures described in paragraphs 13.2.2 through 13.2.6 may be compressed into one Planning Board meeting.*

13.2.2. The Municipal Office shall, at the applicant's expense, give written notice to the applicant, by first class mail, of the date, time, and place of the meeting at which the application will be considered, and to all property owners within five-hundred (500) feet of the parcel on which the proposed development is located. The Municipal Office must also give written notice to the applicable Fire Chief and the Road Commissioner. Failure of any property owner, the Fire Chief, or the Road Commissioner to receive the notice sent as required under this subsection shall not necessitate another public meeting or invalidate any action taken by the Planning Board. The Planning Board shall also cause notice of the date, time and place of the meeting at which the application will first be considered to be published in a newspaper of general circulation in the Town at least seven (7) days prior to the meeting.

13.2.3. Within fifty (50) days of the receipt of a site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete, and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. This step shall be repeated until the application is found to be complete.

13.2.4. As soon as the Board determines that the application is complete, the Board may, at its discretion, take final action on the application at the same meeting at which it finds that the application is complete.

13.2.5. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit 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 13.2.6 may be extended, such extensions shall not exceed thirty-five (35) days after the Board is able to conduct an on-site inspection.

13.2.6. The Planning Board shall take final action on said application within thirty-five (35) days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, and all parties who requested to be notified, of the action of the Board, including the findings of fact and any conditions of

approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

13.2.7. If any use or occupancy, in whole or in part, of a proposed structure, development or land use is contemplated before all conditions of approval are met, the conditions of approval must so specify.

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

13.3. Final Approval and Filing

13.3.1. Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval. The approved site plan shall be signed by the Chair of the Board or his designee and filed by the Board with the Code Enforcement Office.

13.3.2. The Planning Board must prepare a Notice of Decision signed by the Chair of the Board. Upon final approval, the Notice of Decision shall note that the approved site plan is on file at the Codes Enforcement Office. One copy of the Notice of Decision must be recorded by the applicant in the Cumberland County Registry of Deeds within forty-five (45) days of approval and the book and page number provided by the applicant to the Code Enforcement Office. Prior to the expiration of the 45 days, the Planning Board may extend this period for cause.

Failure by the applicant to record the Notice of Decision, at the Registry of Deeds and provide the Code Enforcement Office with the Registry book and page number within forty-five (45) days, or as extended, shall void the site plan approval. No building permits may be issued until compliance with this recording provision is demonstrated.

13.4. Fees

13.4.1. Application Fee. An application for site plan review must be accompanied by an application fee. This fee is intended to cover the cost of the Town's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee shall not be refundable. This application fee must be paid to the Town and evidence of payment of the fee must be included with the application.

13.4.2. Technical Review Fee

In addition to the application fee, the applicant for site plan review may also be required by the Planning Board to pay a technical review fee to defray the Town's legal and technical costs of the application review. This fee must be paid to the Town and shall be deposited in an individual trust account, which is separate and distinct from all other Planning Board and Town accounts. When a technical review fee is required, the application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. If the initial fee proves to be insufficient to meet the Town's legal and technical costs of reviewing

the application, the Planning Board may assess an additional fee(s) to cover such legal and technical costs.

The technical review fee may be used by the Planning Board only to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The Town shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with conditions of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes.

SECTION 14. SUBMISSION REQUIREMENTS

Applications for site plan review must be submitted on application forms provided by the Code Enforcement Office. The complete application form, payment of the required fees, and the required plans and related information must be submitted to the Code Enforcement Office. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements, if the Board makes a written finding that the information is not required to determine compliance with the standards.

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) Ten (10) copies of written materials plus ten (10) sets of maps or drawings containing the information required in this section. The written materials must be contained in a bound report. The maps or drawings must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than one hundred (100) feet to the inch for that portion of the tract of land being proposed for development:

14.1. General Information

- 1) Record owner's name, address, and phone number and applicant's name, address and phone number if different. If the person signing the application is not the owner of the property, then that person must submit a letter of authority from the owner.
- 2) The area in square feet of the lot which is to be developed. The lot area includes the area of land enclosed within the boundary lines of a lot, minus land below the maximum high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.
- 3) Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries.
- 4) Sketch map showing general location of the site within the town based upon a reduction of the tax maps.

- 5) Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
- 6) The tax map and lot number of the parcel or parcels on which the development is located.
- 7) A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- 8) A copy of all existing covenants, deed restrictions, easements, right-of-ways, or other encumbrances affecting the property, delineated on the site plan wherever possible.
- 9) The name, registration number, and seal of the person who prepared the plan, if applicable.
- 10) Evidence of the applicant's technical and financial capability to carry out the development as proposed.

14.2. Existing Conditions

- 1) Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.
- 2) A boundary survey including the bearings and length of all property lines and required setbacks and buffers of the property to be developed and the source of this information. The Planning Board may waive the requirement of a boundary survey when the Planning Board deems that sufficient information is available to establish, on the ground, all property boundaries.
- 3) Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, or on abutting roads, and land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use.
- 4) Location, names, and present widths of existing public and/or private roads and rights-of-way within or adjacent to the proposed development.
- 5) The location and dimensions of all existing structures on the site.
- 6) The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- 7) Location of intersecting roads or driveways within two hundred (200) feet of the site.
- 8) The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features. For any proposed land use activity involving structural development or soil disturbance on sites listed on the National Register of Historic Places, the applicant shall provide evidence that they have submitted their

proposal to the Maine Historic Preservation Commission for review and comment. The Planning Board may require a written statement from the Maine Historic Preservation Commission indicating the proposed development will not adversely impact archeological or historic resources or recommending how the proposed development might be modified to minimize any adverse impact on archeological or historic resources.

Citizen's Note: Consult with the Code Enforcement Office for availability of this information.

- 9) The direction of existing surface water drainage across the site and, if specifically required by the Planning Board, a topographic survey.
- 10) The location, front view, dimensions, and lighting of existing signs.
- 11) The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

14.3. Proposed Development Activity

- 1) Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including a site evaluation and plan indicating soil suitability for sewage disposal if on-site sewage disposal is proposed.
- 2) A surface drainage plan that shows the location and size of ditches, culverts, drainage ways, easements and other improvements as well as the direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- 3) A description of the solid, special, and hazardous waste to be generated, provisions for handling that waste, and the location and proposed screening of any on-site collection or storage facilities.
- 4) The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
- 5) Existing and proposed landscaping and buffering.
- 6) The location, dimensions, height and, if a structure is in a flood plain, ground floor elevation of all proposed structures including expansions or alterations.
- 7) A calculation of total area covered by all structures, driveways, parking areas, and other impermeable surfaces expressed in square feet and as a percentage of lot area.
- 8) Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.

Citizen's Note: See Harpswell Sign Ordinance.

- 9) Location and type of exterior lighting.
- 10) The location of all utilities, including fire protection systems.
- 11) A general description of the proposed use or activity.

- 12) An estimate of the amount, type and impact of peak hour and daily traffic to be generated by the development.
- 13) Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the development requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the development or the existing conditions in the vicinity of the development.

14.4. Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board Chair and date together with the following words, “Approved: Town of Harpswell Planning Board”.

SECTION 15. APPROVAL STANDARDS AND CRITERIA

The following criteria shall be used by the Planning Board in reviewing applications for Site Plan Review and shall serve as minimum requirements for approval of the application. The application shall not be approved unless the Planning Board determines that the applicant has met all of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

Citizen’s Note: Consult with the Code Enforcement Officer on whether and how other town land use ordinances may apply.

15.1. Dimensional Requirements

The plan for development must meet the dimensional requirements of the Basic Land Use Ordinance or Shoreland Zoning Ordinance, as applicable, pertaining to lot area, setbacks, impermeable surface coverage, structural height and frontage. For nonresidential development in areas other than the Shoreland Zone, the minimum lot size standard and the minimum road frontage standard is identical to the requirements for a single dwelling unit.

15.2. Utilization of the Site

The plan for the development must reflect the natural capabilities of the site to support development. Structures, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for threatened and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

15.3. Adequacy of Road System

- 15.3.1.** Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development.

15.3.1.1. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better at the time the application is reviewed by the Planning Board must function at a minimum at Level of Service D after development. If any such intersection is functioning at a Level of Service E or lower at the time the application is reviewed by the Planning Board, the development must not reduce the current level of service. This requirement may be waived by the Planning Board if the development is located within a growth area identified in the Town's land use ordinances and the Board determines that the development will not have an unnecessary adverse impact on traffic flow or safety.

15.3.2. A development not meeting this requirement may be approved if the applicant demonstrates that:

- 1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town.

15.4. Access into the Site

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

- 1) Any driveway or proposed road and adjacent landscaping must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- 2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- 3) The grade of any proposed access/egress way must be not more than $\pm 3\%$ for a minimum of forty (40) feet, from the intersection.
- 4) The intersection of any proposed access/egress way must function: (a) at a Level of Service of D following development if the development will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the development if less than one thousand (1,000) trips are generated.
- 5) Where a lot has frontage on two (2) or more roads, the primary access to and egress from the lot must be provided from the road where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other roads may be allowed if it is safe and does not promote shortcutting through the site.
- 6) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public roads.
- 7) Access ways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public road.

- 8) The following criteria must be used to limit the number access/egress ways serving a proposed development:
 - a. No use that generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way access/egress way onto a single road. Such access/egress way must be no greater than thirty (30) feet wide. The Planning Board may approve a wider width if it deems a wider width to be functionally necessary to the development.
 - b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) access/egress ways from and to a single road. The combined width of both access/egress ways must not exceed sixty (60) feet.

15.5. Access/Egress Way Location and Spacing

Access/egress ways must meet the following standards:

- 1) Entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the access way. This requirement may be reduced by the Planning Board if the shape of the site does not allow conformance with this standard.
- 2) Private access ways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

15.6. Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site.

- 1) Nonresidential developments that will be served by delivery vehicles must provide, as necessary, off-road loading facilities located entirely off roads and entirely on the same lot as the structure or use to be served, and provide a clear route for such vehicles with geometric design to allow turning and backing.
- 2) Clear routes of access and egress must be provided and maintained for emergency vehicles. The Planning Board may require that such a route be kept clear and posted with appropriate signs.
- 3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- 4) All roads must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

15.7. Parking

15.7.1. Parking Spaces Required

The site must provide for sufficient off-road parking. Parking requirements shall be calculated utilizing one or more of the following formulas in a cumulative fashion, as appropriate:

Use	Parking Spaces Required
Lodging and Accommodations	1 per lodging unit and 1 per employee
Campground	1 per site, 1 per employee
Multi-Family Residential	2 per dwelling unit
Church	1 per 3 seats in the assembly room
School	1 per 3 seats in principal assembly room or 2 per classroom whichever is greater
Private Club or Lodge	1 per 4 members
Hospital and Nursing Homes	1 per 3 beds and 1 per employee based upon expected average occupancy
Retail and Commercial Sales	1 per 180 sf. of gross leasable floor area
Business and Professional Structures	1 per 250 sf. of gross leasable floor area
Eating, Drinking, Amusement and Recreation Establishment	1 per 3 seats and 1 per employee on shift
Auto Service and Repair	1 per employee and 1 per 50 sf. of floor space used for service work
Funeral Homes	1 per 75 sf. of floor space in slumber rooms, parlors and individual service rooms
Industrial, Public Utilities, Warehouse and Storage Facilities, Truck Facility, Construction Services	1 per employee based upon highest average employee occupancy on the largest shift and 1 for each vehicle used in the conduct of the enterprise

Adequate spaces shall be provided to accommodate customers, patrons, and employees of all other uses not specifically listed above.

In specific cases where it is demonstrated that a particular structure can be occupied or used with fewer parking spaces than required under this section, the Planning Board may reduce the requirement for off-road parking upon finding that such reduction will not detract from neighborhood values, inconvenience the public or increase congestion in the road.

15.7.2. Layout and Design

Off-road parking must conform to the following standards:

- 1) Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the road.
- 2) All parking spaces, access drives, and impervious surfaces must be located at least twenty (20) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within ten (10) feet of the front property line. Parking lots on adjoining lots may be connected by access/egress ways not exceeding twenty-four (24) feet in width.
- 3) Parking stalls and aisle layout must conform to the following standards.

Parking Angle	Stall Width	Skew Width	Stall Depth	Aisle Width*
90°	8'-6"	8'-6"	18'-6"	12'-0" one way only
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

* Aisle width doubled for two way traffic.

- 4) 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.
- 5) 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.
- 6) 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 adjacent walkways, or damage landscape materials.

15.8. Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major structure entrances/exits with parking areas and with sidewalks, if they exist or are planned in the vicinity of the development. The pedestrian network may be located either in the road right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the development with residential, recreational, and commercial facilities, schools, bus stops,

and sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

15.9. Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed roads, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties.

- 1) To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- 2) Stormwater runoff systems must detain or retain water to minimize the rate of flow from the site after development.
- 3) The applicant must demonstrate that on and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- 4) 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.
- 5) The design of the stormwater drainage system must provide for the disposal of stormwater without damage to roads, adjacent properties, downstream properties, shoreland areas, inter-tidal areas, wetlands, soils, and vegetation.
- 6) The design of the storm drainage systems must be fully cognizant of upstream runoff that must pass over or through the site to be developed and provide for this movement.
- 7) The biological and chemical properties of the receiving waters and adjacent shoreland or inter-tidal areas must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required as part of the site plan approval, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond, wetland, inter-tidal area, or the ocean.

15.10. Erosion Control

All structures, site, and road designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Natural vegetation must be preserved and protected wherever possible. Earthmoving, erosion, and sedimentation control must conform to the provisions of Section 15.16 of the Shoreland Zoning Ordinance.

***Citizen's Note:** Soil erosion and sedimentation of watercourses and water bodies may be minimized by an active program meeting the requirements of the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices", dated March 1991. A copy is on file in the Code Enforcement Office. Additional copies may be obtained from the Maine Department of Environmental Protection or the Cumberland County Soil and Water Conservation District.*

15.11. Water Supply and Groundwater Protection

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the development is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

In the Mitchell Field Marine Business District all uses must be provided with an adequate fire protection water supply. If the community system located on the Mitchell Field property does not provide adequate fire protection flows and pressure, the applicant must demonstrate how adequate fire protection will be provided.

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose developments involve on-site water supply or sewage disposal systems with a capacity of five hundred (500) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

15.12. Subsurface Waste Disposal

15.12.1. All subsurface sewage disposal systems must be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and to minimize adverse impacts on ground water quality.

15.12.2. All new, replacement, renovated, or expanded structures or uses generating waste, must provide evidence of the type specified in 13.3.4 of the Basic Land Use Ordinance that an adequate waste water disposal system can be constructed or that an adequate waste water disposal system already exists.

15.12.3. Existing Use, Continuation of Use: The use of any legal system which exists on the effective date of this Ordinance, or which had previously been approved for installation, may be continued without change except as may be specifically covered by the Maine State Plumbing Code or deemed necessary by the plumbing inspector for the general safety and welfare of the occupants and the public.

15.12.4. The minimum setback for new subsurface sewage disposal systems shall be not less than one hundred (100) horizontal feet from the maximum high water line of a perennial water body. The minimum setback distances from the water bodies for new subsurface sewage disposal systems shall not be reduced by variance.

15.12.5. Replacement systems shall meet the standards for replacement systems as contained in the Maine Subsurface Wastewater Disposal Rules.

15.12.6. When two or more lots or structures in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owner's association. Covenants in the deeds for each lot, or in the case of the Mitchell Field Marine Business District, provisions in the leases for each lot, must require mandatory membership in the association and provide for adequate funding for the association to assure proper maintenance of the system.

Citizen's Note: The Town recommends that all owners of new and replacement systems install low-flow flushes and shower heads.

15.13. Utilities and Essential Services

Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors and above ground facilities must be located so as to avoid crossing open areas and scenic views as identified in the Comprehensive Plan.

15.14. Natural Features and Buffering

15.14.1 The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as much as possible.

15.14.2. The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for the screening of mechanical equipment and service and storage areas. Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. The buffer may be provided by distance, landscaping, fencing, changes in grade, and/or a combination of these and other techniques.

- 1) Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and traveled ways, and to otherwise prevent any nuisances.
- 2) Exposed storage areas, service areas, exposed machinery installations, and gravel extraction operations, truck loading areas, utility structures other than transmission poles, and areas used for the storage and collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and 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 site and surrounding properties, such as a stockade fence or a dense evergreen hedge six feet or more in height.
- 3) Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.
- 4) Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and roads. When natural features such as topography, gullies, stands of trees, shrubbery, and rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

- 5) Evergreens can be used as buffers, provided they are planted properly. An evergreen buffer requires two or three rows of staggered plantings. The rows should be five feet apart and the evergreens planted four feet on center.
- 6) Fencing and screening shall be durable and properly maintained at all times by the owner.
- 7) All buffer areas shall be maintained in a neat and sanitary condition by the owner.
- 8) In the Mitchell Field Marine Business District, any lot that abuts the perimeter of the Mitchell Field Marine Business District must maintain a buffer along that property line. The buffer must meet the requirements of this section and must include the entire required setback area except for provisions to provide for public access across the lots. Any lot that abuts a portion of the Mitchell Field property outside of the Mitchell Field Marine Business District that is designated for recreational use must maintain a buffer along that property line. The design of the buffer in this area should provide for a treatment that addresses buildings and service areas while maintaining views across the lot to the ocean to the extent feasible (see provisions of Section 15.22. relative to visual impacts). For the purposes of this requirement, service areas do not include areas used for outside boat storage in conjunction with a functionally water-dependent use, marina, boat repair facility, or other marine-related business.

15.15. Lighting

Provisions for exterior lighting must not create undue hazards to motorists traveling on adjacent roads, must be adequate for the safety of the occupants or users of the site, and must not damage the value or diminish the usability of adjacent properties.

15.16. Water Quality Protection

All aspects of the development must be designed so that:

- 1) No person or activity shall result in, locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- 2) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal's Office.
- 3) If the development is located within the watershed of a "body of water most at risk from development" as identified by the Maine Department of Environmental Protection (DEP), the development must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

15.17. Hazardous, Special and Radioactive Materials

The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with applicable rules and regulations of the Maine Department of Public Safety and other federal, state, and local regulations.

15.18. Solid, Special and Hazardous Waste Disposal

The proposed development must provide for adequate disposal of the solid, special and hazardous wastes generated by the development. All waste must be disposed of at a licensed disposal facility having adequate capacity to accept the development's wastes.

15.19. Historic and Archaeological Resources

The development shall be designed to protect and preserve archeological and historic sites that have been identified in the Town's Comprehensive Plan, or by the Maine Historic Preservation Commission or the National Park Service.

15.20. Floodplain Management

If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's Floodplain Management Ordinance.

15.21. Technical and Financial Capacity

The applicant must demonstrate that he/she has the financial and technical capacity to carry out the development in accordance with this Ordinance and the approved plan.

15.22. Additional Standards for the Mitchell Field Marine Business District

The following performance standards apply only to development within the Mitchell Field Marine Business District. In reviewing applications for development within this District, the Planning Board must determine that each of these standards will be met. Where these standards are more restrictive than other standards of this ordinance, these standards shall control.

15.22.1. Exterior Lighting

Exterior lighting, including new lighting or modifications to existing lighting, must provide only the minimum lighting levels necessary to ensure adequate vision, safety and comfort and not cause glare beyond the lot boundaries. Exterior lighting must conform to the following standards:

- 1) All lighting fixtures whether pole-mounted or building mounted, must be full cut-off fixtures.
- 2) Lighting fixtures must be hooded or shielded so that the lighting element is not exposed to view from adjacent properties, roads, or the ocean.
- 3) The use of flood lighting or other directional lighting is not permitted in the Mitchell Field Marine Business District.
- 4) The mounting height of all lighting fixtures as measured to the light source must not exceed twenty feet above the surrounding grade at the base of the pole for pole-mounted fixtures or at the foundation directly beneath the light for building-mounted fixtures.
- 5) Lighting fixtures located on or within canopies or other horizontal surfaces must be recessed into the ceiling or surface so that the lamp, reflector, or lens is not visible from roads or adjacent property outside of the Mitchell Field Marine Business District and to limit the direction of light as required for “cut-off fixtures”. Refractors or diffusing panels that are dropped below the surface are not permitted.
- 6) The illumination of the walls of buildings or other architectural features is not permitted.
- 7) The maximum illumination level at the property line of the lot with any other lot that is not part of the District measured four feet above grade must be not more than 0.2 foot-candle.
- 8) Exterior lighting other than security lighting must be turned off when the business is not in operation. The use of after-hours security lighting is permitted provided that the average lighting level does not exceed two (2) foot-candles when the business is not in operation.

15.22.2. Noise

The location and design of structures as well as service and loading areas, and the operation of the site must minimize the impact of noise on areas outside of the Mitchell Field Marine Business District. This requirement can be met by the following:

- 1) All work and operations will be conducted, and all machinery including, but not limited to, generators, compressors, and HVAC components will be located within a sound insulated structure, or
- 2) If the applicant demonstrates to the satisfaction of the Planning Board that the requirement of 1) cannot be met without unduly limiting the facility’s intended use and function, the applicant must submit, and the Planning Board must review as part of the Site Plan Review for the use, a Noise Control Plan demonstrating how the noise impacts will be minimized. If the sound generating characteristics of the use change or if a new use occupies the property, the Noise Control Plan must be revised and submitted for review and approval by the Planning Board.

In approving a Noise Control Plan, the Planning Board must find that the applicant has made adequate provisions to minimize noise impacts consistent with reasonable operation of the site. In reviewing and approving a Noise Control Plan, the Planning Board shall apply the following decibel sound limit for day and night activity unless the applicant demonstrates and the Planning Board finds that a higher limit is necessary due to the nature of the use based on typical noise levels associated with that use with the application of appropriate noise control measures:

The maximum allowable sound level in dBA based on a fifteen-minute equivalent sound level $L_{-Aeq\ 15\text{minute}}$ when measured at the boundary of the Mitchell Field Maine Business District:

- for daytime activity between the hours of 6:00 AM and 9:00 PM 65dBA
- for nighttime activity between the hours of 9:00 PM and 6:00 AM 50 dBA

In approving a Noise Control Plan, the Planning Board may establish reasonable requirements to ensure that noise impacts are minimized. These requirements may include, but are not limited to:

- a) provisions for enclosing machinery, equipment, or operations;
- b) limits on the hours of operation;
- c) design of the site to reduce noise impacts (noise reducing site design);
- d) the methods of operation of noise producing equipment or operations;
- e) alterations of vehicle travel patterns on the site including the location of service or loading areas, and/or
- f) provisions for sound level monitoring.

15.22.3. Odor Control

The location and design of structures as well as service and loading areas, and the operation of the site must minimize the impact of odors on areas outside of the Mitchell Field Marine Business District. This requirement can be met by the following:

- 1) All work and operations that generate odors will be conducted within a structure without any venting of odors to the outside, or
- 2) If the applicant demonstrates to the satisfaction of the Planning Board that the requirement of 1) cannot be met without unduly limiting the facility's intended use and function, the applicant must submit, and the Planning Board shall review, an Odor Control Plan demonstrating how the odor impacts will be minimized. If the odor generating characteristics of the use change or if a new use occupies the property, the Odor Control Plan must be revised and submitted for review and approval by the Planning Board. In approving an Odor Control Plan, the Planning Board may establish reasonable requirements to ensure that the applicant has made adequate provisions to minimize odor impacts consistent with the reasonable operation of the site. These requirements may include, but are not limited to:

- a) provisions for odor collection and/or reduction equipment on machinery, equipment, exhaust fans, or operations;
- b) design of the site to reduce odor impacts including the location of odor generating activities;
- c) requirements for modes of operation; and/or
- d) provisions for odor monitoring.

15.22.4. Visual Impacts

The development of lots within the Mitchell Field Marine Business District must minimize the visual impact of the development on adjacent residential neighborhoods, other areas of the Mitchell Field property, and people who can see the site from the water. This requirement can be met by the following:

1. The location and design of structures and other improvements on the lot, in conjunction with structures and improvements on other lots in the Mitchell Field Marine Business District, must maintain views of the ocean from other areas within the Mitchell Field property to the extent feasible consistent with reasonable development and use of the property for the intended purpose. Where feasible, view corridors across the Marine Business District to the water must be maintained. Structures should be clustered together or oriented with their long axis perpendicular to the shoreline if feasible from an operational perspective to maximize views through the district.
2. Structures and other improvements must be used to screen parking lots, service and loading areas, and loading docks or overhead doors from view from the main Mitchell Field access road, the “Lower Field” as shown in the Mitchell Field Master Plan, adjacent properties outside of the Mitchell Field Marine Business District, and/or the ocean where practical. For the purposes of this requirement, service areas do not include areas used for outside boat storage in conjunction with a functionally water-dependent use, marina, boat repair facility, or other marine-related business.
3. Architectural features such as dormers, entranceways, shade structures, windows, breaks in the roofline, or wall offsets should be used to break up the scale of structures especially larger ones with a footprint of more than ten thousand (10,000) square feet or walls that are longer than one hundred (100) feet in length.
4. Exterior surfaces of structures including roofs must be treated so that the development blends into the landscape when viewed from a distance especially from the water. The use of dark natural colors and earth tones is encouraged. Bright primary colors or light tones should be avoided. Matte finishes are preferred while high gloss or reflective finishes should be avoided. Exterior surfaces should not be reflective or metallic appearing unless required by operational necessity.
5. Large westerly-facing windows should be avoided unless they are treated to avoid glare through the use of non-reflective glass, recessing of the windows, the use of shading devices that cast a shadow on the window, or similar techniques.

6. All functional elements such as transformers, HVAC units, dumpsters, material storage areas, loading docks/doors must be either incorporated into the building or screened from view by enclosures, fencing, landscaping, or other techniques.

SECTION 16. POST APPROVAL ACTIVITIES

16.1. Limitation of Approval. Substantial start of construction of the development covered by any site plan approval must be commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially started 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 a one-year extension if the approved plan conforms to the ordinances in effect at the time the extension is granted and if any and all federal and state approvals and permits are current.

16.1.2. If construction has not been completed within two (2) years of the granting of approval, the approval shall be null and void, unless the Planning Board grants an extension of the time to complete the development. When an approval has expired, a new site plan review application shall be filed. The new application must meet the requirements of the Town's land use ordinances in effect at the time of the new filing.

16.2. Approved Plan Necessary to Obtain Building Permit

One copy of the approved site plan must be included with the application for the building permit(s) for the development and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

16.3. Performance Guarantees

Prior to approval of the site plan, the Planning Board must require documentation that the applicant has financial capacity to carry out the proposed development. A performance guarantee, letter of credit or similar agreement with the Planning Board may be required for the following, whether on-site or off-site:

- 1) The construction of roads and/or buffer improvements;
- 2) The construction of any water supply or sewage system other than individual on-site facilities;
- 3) The construction of drainage systems, erosion control measures, or water supply systems for fire protection; and
- 4) The construction of other improvements, such as buffer strips, intended to minimize adverse impacts on the public or on abutting properties.

16.3.1. Form of Guarantee. The performance guarantee may be tendered as a certified check payable to the Town, a savings account passbook in the name of the Town, an irrevocable letter of credit from a financial institution acceptable to the Selectmen, or a

faithful performance bond running to the Town and issued by a surety company licensed to do business in the State of Maine and acceptable to the Selectmen.

16.3.2. Amount of Guarantee

The amount of the performance guarantee is one hundred twenty-five (125) percent of the cost of the requirements of Subsection 16.3 above. All guarantees are conditioned upon the completion of all such improvements within two (2) years from the date of approval or another agreed upon date based on Section 16.1 above of this Ordinance.

16.3.3. Release of Guarantee

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer or the Town's consultant and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

16.3.4. Default

If, upon inspection, the Code Enforcement Officer or the Town's consultant finds that any of the required improvements have not been constructed in accordance with the approved plan and specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen, the Planning Board, and the applicant. The performance guarantee shall then remain in place until the provisions of Subsection 16.3.3 above are met.

If the requirements of Subsection 16.3.3 are not met within a reasonable period of time after such notice, the Selectmen may utilize the funds from the guarantee to cause the completion of the improvements or to restore the site to its pre-development condition.

16.4. Inspection Assistance

The following provisions shall apply to any project that includes as part of the approved plan the construction of a structure or structures with a combined footprint of more than five thousand (5,000) square feet or capital improvements including but not limited to roads, drainage facilities, underground utilities, and similar facilities.

16.4.1 Pre-Construction Notice – At least ten (10) working days prior to the start of construction of any improvements, the owner or his/her contractor, engineer or other agent shall notify the Code Enforcement Office in writing of the planned start of construction.

16.4.2 Inspection of Construction – Prior to the start of construction the Code Enforcement Officer shall determine whether inspection of the improvements will be the responsibility of the Code Enforcement Officers or whether the Town will need to retain outside assistance in conducting the inspections of some or all of the facilities.

16.4.3 Outside Inspection Services – If the Code Enforcement Officer determines that outside assistance is needed to provide for the inspection of some or all of the improvements, the owner or his/her agent shall deposit an amount equal to two (2) percent of the estimated costs of the improvements subject to outside inspection to pay for the costs of the inspections. The

funds shall be held in a separate account and shall be used only for the purpose of inspecting the improvements. If there are any unexpended funds in the account at the satisfactory closeout of all construction activity, the remaining balance shall be returned to the owner or her/his agent. If the inspection fund is drawn down by more than ninety (90) percent and the Code Enforcement Officer determines that there is a need for further outside inspection services, the owner or her/his agent shall deposit an additional one (1) percent of the estimated construction costs in the account. Once the initial deposit is made, the Code Enforcement Officer shall arrange for appropriate inspection services from a qualified individual or firm.

16.4.4 Inspections – The Code Enforcement Officer or outside inspector shall conduct periodic inspections of the improvements. If the inspecting official finds that any of the improvements are not being or have not been constructed in accordance with the approved plans, conditions of approval, and/or the Town’s ordinances, the Code Enforcement Officer or outside inspector shall prepare a written report documenting the deficiencies. The report shall be provided to the owner, his/her agent, and his/her engineer and/or contractor and to the chair of the Planning Board. The Code Enforcement Officer shall take any necessary steps to ensure compliance with the approved plans. If the owner fails to correct the deficiencies, the Code Enforcement Officer shall refer the matter to the Select Board for enforcement action.

16.5. Minor Amendments to Approved Plans or Activities Requiring Site Plan Approval

Minor amendments in approved site plans or activities identified in Section 3 of this Ordinance that were in existence at the time of first adoption of this Ordinance may be approved by a Staff Review Committee consisting of the Code Enforcement Officer, Town Planner, and Chair of the Planning Board or his/her designee, provided that any such amendment does not affect compliance with the Site Plan Review Ordinance approval standards or alter the essential nature of the original site plan or activity. The Town Planner shall serve as the Chair of the Staff Review Committee. Amendments to approved site plans for structures of less than one thousand (1,000) square feet shall be reviewed by the Staff Review Committee rather than the Planning Board, except that the Staff Review Committee may refer any such proposed amendments to the Planning Board if it determines that the proposed amendment affects compliance with the Site Plan Review Ordinance approval standards or alters the essential nature of the original site plan. The Staff Review Committee shall cause notice of the date, time and place of the meeting at which the minor amendment will first be considered to be published in a newspaper of general circulation in the Town at least seven (7) days prior to the meeting and written notice of said meeting to be mailed to all property owners within five hundred (500) feet of the parcel at least seven (7) days prior to the meeting. Approval by the Staff Review Committee shall require the affirmative vote of at least two members of the Committee. The applicant may request a continuation of the Staff Review Committee’s consideration if only two members are present. The Town Planner shall provide written notice to the Planning Board of the fact that a minor amendment to the site plan has been approved. Any amendment approved by the Staff Review Committee pursuant to this subsection must be endorsed in writing on the approved plan by the Staff Review Committee. Failure of any property owner to receive the notice required under this subsection does not invalidate any action taken by the Staff Review Committee.

16.6. 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 amendments as set forth in Section 16.4 of this Ordinance, is subject to prior review and approval by the Planning Board.

16.7. Submission of As-Built Plans

Any development involving the construction of more than ten thousand (10,000) square feet of gross floor area or twenty thousand (20,000) square feet of impermeable surface, must provide the Code Enforcement Office with a set of construction plans showing the structure(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted before the issuance of a certificate of compliance for the development.

SECTION 17. APPEALS

Appeals of any action taken by the Planning Board under this Ordinance shall be to the Board of Appeals in accordance with the Basic Land Use Ordinance's administrative provisions. Action taken by the Staff Review Committee under this Ordinance may be appealed, in writing, to the Planning Board by the applicant or an aggrieved party within fifteen (15) days of final action by the Staff Review Committee; provided, however, that any action by the Staff Review Committee to refer a matter to the Planning Board shall not be appealable. The Planning Board shall hear and decide any appeal on a *de novo* basis.