

# **SITE PLAN REVIEW ORDINANCE**

## **For the Town of Orland**

**Adopted June 11, 2014**

### **SEC. 1. PURPOSE AND AUTHORITY**

#### **1.1 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 construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

#### **1.2 Authority**

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution.

### **SEC. 2. APPLICABILITY OF SITE PLAN REVIEW**

A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

- (1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures
- (2) The expansion of an existing nonresidential building or structure including accessory buildings that increases the total floor area.
- (3) The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
- (4) The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses.

(5) The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in Section 9 of this ordinance.

(6) The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.

(7) The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand five hundred (2,500) square feet within any three (3) year period.

The following activities shall not require site plan 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 buildings and structures.

(2) The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.

(3) Agricultural activities, including agricultural buildings and structures.

(4) Timber harvesting and forest management activities.

(5) Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

## **SEC. 3. DEFINITIONS**

### **3.1. Meaning of Words**

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

### **3.2. 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.

**AGGRIEVED PARTY:** An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

**ANIMAL BREEDING OR CARE:** The keeping or raising of 4 or more animals, including domestic animals and pets, for any commercial use, including, but not limited to, kennels.

**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.

**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.

**CHANGE FROM ONE CATEGORY OF NONRESIDENTIAL USE TO ANOTHER CATEGORY OF NONRESIDENTIAL USE:** A change in the type of occupancy of a nonresidential 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.

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

**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 municipality's comprehensive plan.

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

**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.

**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 municipality'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.

**KENNEL:** An establishment in which more than four (4) dogs or four (4) cats are sold or housed, bred, boarded or trained for a fee.

**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.

**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 municipality's comprehensive plan.

**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.

**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.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle. (For purposes of this ordinance the following are deemed to be structures: buildings, signs, commercial park rides and games, campgrounds, carports, porches, and other building features including stacks and antennas. For the purposes of this ordinance the following are deemed not to be structures: sidewalks, fences, driveways or parking lots under 2500 square feet, field or garden walls, or embankment retaining walls less than 2 feet tall.)

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.

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.

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 municipality's comprehensive plan.

## **SEC. 4. ADMINISTRATION AND ENFORCEMENT**

This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers.

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the municipality, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

Any person, firm, or corporation being the owner of or having control or use of any building or premises who violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A §4452. Violators shall also be liable for court costs and reasonable attorney fees incurred by the Town of Orland. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and

convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

## **SEC. 5. INTERPRETATION OF THE ORDINANCE**

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

## **SEC. 6. REVIEW AND APPROVAL AUTHORITY**

The Planning Board is authorized to review and act on all site plans for development requiring site plan review as defined above.

In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

## **SEC. 7. REVIEW PROCEDURES**

The Planning Board shall use the following procedures in reviewing applications for site plan review.

### **7.1. Preapplication**

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

#### **7.1.1. Purpose**

The purposes of the preapplication conference are to:

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

In addition, the Board may schedule a site inspection in accordance with subsection 7.2(5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

### **7.1.2. Information Required**

There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Board:

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

### **7.2. Application Submission and Review Procedures**

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 Chair of the Planning Board at least two weeks prior to the Planning Board meeting at which the application will be considered.

- (1) At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant and shall notify by first-class mail all property owners within five hundred (500) feet of the parcel on which the proposed development is located. Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Road Commissioner, Code Enforcement Officer, Plumbing Inspector, and other interested parties.
- (2) Within forty (40) days of the receipt of a formal 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. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
- (3) As soon as the Board determines that the application is complete, the Board shall: notify the applicant in writing of this finding, meet the notification requirements of subsection (4) below, and place the item on the agenda for substantive review within forty (40) days of this finding.
- (4) The Planning Board shall give written notice of the date, time, and place of the meeting at which the application will be considered to the applicant and all persons who received the notice in (1).
- (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 (6) may be extended, which extension shall not exceed forty (40)] days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (4).

(6) The Planning Board may hold a Public Hearing within forty (40) days of determining that the application is complete. The Planning Board shall publish the time, date, and place of the hearing at least one (1) time at least seven (7) days prior to the hearing in a newspaper of area-wide circulation. The abutting land-owners shall be notified of the hearing by certified mail, return receipt by the Planning Board. Notice of the Public Hearing shall also be sent by the Planning Board by first-class mail to all property owners within five hundred (500) feet of the parcel on which the proposed development is located.

(7) The Planning Board shall take final action on said application within forty (40) 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, all officials who received notice under (4), 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.

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

### **7.3. Final Approval and Filing**

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Planning Board. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board shall become null and void. In addition, the Planning Board may require the signed plan to be recorded in the Hancock County Registry of Deeds within thirty (30) days of the vote to approve the plan. The Planning Board, by vote, may extend the filing period for good cause.

### **7.4. Fees**

#### **7.4.1. 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 municipality'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 municipality and evidence of payment of the fee must be included with the application.

#### **7.4.2. Technical Review Fee**

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.



The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

### **7.4.3. Establishment of Fees**

The Municipal Officers may, from time to time and after consultation with the Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

## **SEC. 8. SUBMISSION REQUIREMENTS**

Applications for site plan review must be submitted on application forms provided by the municipality. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Chair of the Planning Board. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the preapplication conference or at the initial review of the application if no preapplication conference is held. A waiver of any submission requirement may be granted only if the Board makes a 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) Evidence of payment of the application and technical review fees.
- (3) Nine (9) copies of written materials plus nine (9) sets of maps or drawings containing the information listed below. 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 fifty (50) feet to the inch for that portion of the tract of land being proposed for development:

### **8.1. General Information**

- (1) record owner's name, address, and phone number and applicant's name, address and phone number if different.
- (2) the location of all required building setbacks, yards, and buffers.
- (3) names and addresses of all property owners within five hundred (500) feet of any and all property boundaries. Those property owners who are abutters to the property being developed must be identified as such.

(4) sketch map showing general location of the site within the municipality 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 project 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 including existing and proposed easements, restrictions, and covenants placed on the property.

(8) the name, registration number, and seal of the person who prepared the plan, if applicable.

(9) evidence of the applicant's technical and financial capability to carry out the project as proposed.

## **8.2. Existing Conditions**

(1) zoning classification(s), including overlay and/or subdistricts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or subdistricts or abuts a different district.

(2) the bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.

(3) location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.

(4) location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.

(5) the location, dimensions and ground floor elevation of all existing buildings on the site.

(6) the location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.

(7) location of intersecting roads or driveways within two hundred (200) feet of the site.

(8) the location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.

(9) the direction of existing surface water drainage across the site.

(10) the location, front view, dimensions, and lighting of existing signs.

(11) location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

(12) the location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

(13) the location of aquifer recharge areas, if available

### **8.3. 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 soils test pit data if on-site sewage disposal is proposed, and, if applicable, written statement(s) required by Section 9.10 and Section 9.11 of this Ordinance.

(2) the direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.

(3) provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.

(4) the location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site and a written statement from either the Town of Orland Road Commissioner or Selectmen that the proposed road or street construction will meet town specifications, or when on a State road, evidence of a M.D.O.T. Entrance permit.

(5) proposed landscaping and buffering.

(6) the location, dimensions (including height), and ground floor elevation of all proposed buildings or building expansion proposed on the site.

(7) location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.

(8) location and type of exterior lighting.

(9) the location of all utilities, including fire protection systems. (The Planning Board may require a written statement from the Fire Chief of the Town of Orland specifying the fire protection services required, or State Fire Marshall approval if applicable.) (Note: Daycare facilities must be inspected by the State Fire Marshall.)

(10) a general description of the proposed use or activity.

(11) an estimate of the peak hour and daily traffic to be generated by the project.

(12) stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

(13) Location of snow storage area(s), if applicable (Major Developments)

(14) an estimate of the date when construction will start and when the development will be completed.

#### **8.4. Approval Block**

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

### **SEC. 9. APPROVAL STANDARDS AND CRITERIA**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

#### **9.1. Utilization of the Site**

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

During construction, the site shall be maintained and left each day in a safe manner.

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 buildings or site, and to minimize the encroachment of the proposed use on neighboring land uses.

#### **9.2. Adequacy of Road System**

Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. 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 prior to the development 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 prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

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 municipality.

### **9.3. Access into the Site**

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

(1) Any driveway or proposed street 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 drive or street must be not more than  $\pm 3\%$  for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.

(4) The intersection of any access/egress drive or proposed street must function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.

(5) Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe and does not promote shortcutting through the site.

(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 streets.

(7) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

(8) The following criteria must be used to limit the number of driveways serving a proposed project:

a. No use which generates less than one hundred (100) vehicle trips per day shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.

b. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

### **9.4. Accessway Location and Spacing**

Accessways must meet the following standards:

(1) Private 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 accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

- (2) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

## **9.5. 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 projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles. [Note: WB-40 vehicles are vehicles with a forty (40) foot wheelbase.]
- (2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- (3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- (4) All roadways 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.

## **9.6. Parking Layout and Design**

Off-street 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 street.
- (2) All parking spaces, access drives, and impervious surfaces must be located at least five (5) 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 five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.

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

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

(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 nonresidential 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.

### **9.7. Pedestrian Circulation**

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

### **9.8. Stormwater Management**

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, 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) Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.

(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 streets, adjacent properties, downstream properties, soils, and vegetation.

(6) 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.

(7) The biological and chemical properties of the receiving waters 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, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

## **9.9. Erosion Control**

All building, site, and roadway 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. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies will 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.

## **9.10. Water Supply**

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

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

## **9.11. Sewage Disposal**

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



(1) All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.

(2) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system will occur if and when the subsurface system needs to be replaced.

(3) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.

(4) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

(5) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by the Town of Bucksport Wastewater Treatment Facility.

## **9.12. Utilities**

The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

## **9.13. Natural Features**

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 far as possible.

## **9.14. Groundwater Protection**

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

## **9.15. Water Quality Protection**

All aspects of the project must be designed so that:

(1) No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or groundwaters 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 Marshall's Office.

(3) If the project 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 project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

## **9.16. 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, special or radioactive must be done in accordance with the standards of these agencies.

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

## **9.17. Shoreland Relationship**

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.

Any development within the Shoreland Zone as defined in the Town of Orland Shoreland Zoning Ordinance will also require a permit in accordance with the provisions of that Ordinance.

## **9.18. Technical and Financial Capacity**

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

## **9.19. Solid Waste Disposal**

The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

## **9.20. Historic and Archaeological Resources**

If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, notifying the Maine Historic Preservation Commission, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

## **9.21. 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 provisions.

## **9.22. Special Features of the Development**

All features of the development which may have an adverse audio/visual impact on surrounding properties shall have sufficient setbacks and screening to minimize that impact.

Hours of operations, noise levels and exterior lighting will be designed to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.

### **9.22.1 Kennels**

Structures or pens for housing or containing animals must be located no less than 100 feet from the nearest existing residence, other than the residence occupied by the property owner or the kennel operator.

(1) All kennels, pens, and runs must be designed, constructed, and located on the site in a manner that will minimize any detrimental effects from noise or odors on surrounding properties. Among the factors that must be considered are the relationship of the use to the topography, the vegetative buffer, the direction and intensity of the prevailing winds, the location of residences and public facilities on nearby properties and other similar factors.

(2) Kennels must be maintained in a clean, orderly, and sanitary condition at all times. No garbage, offal, feces, or other waste material may be allowed to accumulate on the premises. The premises must be maintained in a manner that will not attract or harbor insects, vermin or rodents. Outdoor dog runs must be completely fenced in and paved with concrete, asphalt or similar material to provide for ease of maintenance.

(3) Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement must be kept tightly covered at all times. Such containers must be made of steel or plastic to facilitate cleaning and must be located in accordance with the setback requirements for structures in Section 9.22.1(1).

(4) Any incineration device for burning excrement-soaked waste papers or animal remains must be located at a minimum distance of 400 feet from the nearest residence other than the owner's or kennel operator's residence. The device must have a chimney vent not less than 35 feet above the average ground elevation, and it must comply with all applicable State standards.

### **9.23. Air Pollution**

The proposed development will not result in undue air pollution. The development must comply with all Federal and State air quality laws and regulations.

### **9.24. Municipal Services**

The development will not impose an unreasonable burden on municipal services including municipal road systems, fire department, law enforcement, solid waste disposal, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

### **9.25. 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 surrounding properties and shall not constitute hazards to vehicles and pedestrians.

(1) Signs relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed thirty-two (32) square feet in total area and shall not exceed two (2) signs per premises. Signs relating to goods and services not sold or rendered on the premises shall be prohibited.

(2) Free standing signs shall not extend higher than twenty (20) feet above the ground.

(3) Signs may be illuminated only by shielded, non-flashing external lights.

## **SEC. 10. POST APPROVAL ACTIVITIES**

### **10.1. Limitation of Approval**

Substantial construction of the improvements 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 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.

### **10.2. Incorporation of Approved Plan**

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

### **10.3. Recording of the Approved Plan**

The Planning Board may require one copy of the approved site plan to be recorded in the Hancock County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

## **10.4. Improvement Guarantees**

### **10.4.1. Application**

(1) Improvement Guarantee - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 10.4.2. below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

(2) Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate Municipal Officials. The respective Municipal Officials shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

(3) The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the Municipal Officials.

(4) If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

### **10.4.2. Form of Guarantee**

Performance guarantees may be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Board of Selectmen and/or the Municipal Attorney.

(1) Security Bond - The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.

(2) Letter of Credit - The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

(3) Escrow Account - The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require approval by the Board of Selectmen for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

## **10.5. Submission of As-Built Plans**

Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

## **10.6. 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.

## **10.7. Amendments to Approved Plans**

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval.

## **SEC. 11. APPEAL OF PLANNING BOARD ACTIONS**

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

## **SEC. 12. AMENDMENTS TO THE ORDINANCE**

Amendments of this ordinance may be initiated by the Municipal Officers, the Planning Board, or as specified in Title 20-A M.R.S.A. §2522.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the municipal officers have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

## **SEC. 13. SEVERABILITY and CONFLICT WITH OTHER ORDINANCES**

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

Whenever the requirements of this Ordinance are inconsistent with any other Ordinance, code or statute, the more restrictive requirements shall apply.