2016 3/2/16

PROPOSED SITE PLAN REVIEW ORDINANCE

Town of New Sharon
Site Plan Review Ordinance

SECTION I. PURPOSE

The purpose of this Ordinance is to provide a fair, thorough, and expedient review process for significant development or land use change; to promote the health, welfare, and safety of the residents of New Sharon; to minimize impacts on adjacent properties; to protect the town's natural resources; and reduce the off-site effects of development, thereby controlling the costs of maintaining or improving municipal services.

SECTION II. GENERAL PROVISIONS

A. Authority
   1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A. M.R.S.A Sections 2101 et seq. and 30-A M.R.S.A. Section 3001 et seq.
   2. This Ordinance shall be known as the "Site Plan Review Ordinance" of the Town of New Sharon, Maine, adopted and effective by vote of the Town Meeting March 6, 2010; revised by vote of the Town Meeting March 12, 2016; and supersedes and nullifies the Site Plan Review Ordinance of November 11, 1990 and the site Plan Review Ordinance of March 6, 2010, with respect to new projects.

B. Administration
   1. The Planning Board and the Code Enforcement Officer of the Town of New Sharon shall administer this Ordinance.

SECTION III. APPLICABILITY

A. This Ordinance shall apply to all development proposals for:
   1. New, or substantial enlargements of commercial, retail, industrial, and institutional structures and uses.
   2. Multiple-family dwellings consisting of three (3) or more attached dwelling units and their accessory uses and structures.
   3. Campgrounds.
   4. Mobile home parks.
   5. New uses of existing structures or land uses when such new uses would generate greater traffic, or which would employ new materials and/or processes or the sale of goods not normally associated with the previous use.
   6. Private and commercial airstrips or airports (subject to prior approval by the Federal Aviation Administration).

B. This Ordinance does not apply to:

1. Construction of single family dwellings.
2. Construction of barns, stables, and other buildings normally associated with agricultural land management practices.
3. All non-structural uses of land for agricultural land management practices or forestry management practices.
4. Existing buildings or premises legally established prior to the adoption of this Ordinance unless one or more of the factors described in Section III.A.1 through 6 is present.
5. Bed and breakfast establishments.
6. Home occupations.

SECTION IV. APPLICATION PROCEDURE

A. Pre-Application Meeting

1. Prior to submitting an application for development, the developer or his authorized agent should appear informally at a regular or special meeting of the Planning Board to discuss the proposed development.
2. The developer shall present to the Planning Board at this time, for informal review and comment, a sketch plan of the proposed development. The sketch plan shall consist of a rough outline of the proposed development, and may be a free hand, penciled sketch of the parcel, showing the proposed layout of buildings, roads and other features including possible buffer zones which may be of assistance to the Planning Board in making its determinations.
3. No binding commitments shall be made between the developer and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed.
4. The Planning Board may request that the developer arrange for an inspection of the site with the Planning Board.

B. After the Pre-Application meeting, the developer shall prepare and submit a Site Plan of Development Application, which shall include as a minimum:

1. A map or maps prepared at a scale of not less than one (1) inch to fifty (50) feet and shall include:
    a. Name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest;
    b. Existing soil conditions as described by either a licensed soil scientist, geologist, engineer or SCS medium intensity soil surveys;
    c. Municipal tax maps and lot numbers and names of abutting land owners;

d. Perimeter survey of the parcel and interior lot layout made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage;

e. Existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways and public or private rights-of-way;

f. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site onto public streets, and curb and sidewalk lines;

g. Landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;

h. Topography indicating contours at intervals of either 5 or 10 feet in elevation as specified by the Planning Board.

i. Location of aquifers and aquifer recharge areas, if mapped.

2. A written statement by the applicant that shall consist of:
   a. Evidence by the applicant of his title and/or interest in the land for which the application covers;

   b. A description of the proposed uses to be located on the site, including quantity and type of residential unit, if any;

   c. Total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;

   d. Summary of existing and proposed easements, restrictions and covenants placed on the property;

   e. Method of solid waste disposal;

   f. Erosion and sedimentation control plan;

   g. An on-site soils investigation report by a Department of Human Services licensed site evaluator. The report shall contain the types of soil, location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;

   h. Copies of letters to abutting landowners and Selectmen, notifying them of the proposed development by certified mail;

   i. List of applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to zoning ordinances, Great Ponds Act, the flood prone areas subject to the National Flood Insurance Act;

j. A statement from the Fire Chief as to the availability of fire hydrants and/or fire ponds, or provisions for fire protection services;

k. A statement from the Road Commissioner that any proposed road or street construction will meet Town specifications as specified in State of Maine Statutory Road Requirements;

l. An estimate of the date when construction will start and when the development will be completed; and

m. If the site to be developed has archeological or historical significance an inventory of those resources shall be provided.

n. Any additional information the Planning Board deems necessary to adequately consider the application, e.g. traffic studies.

C. Application Process

1. An application shall be filed with the Planning Board for review. Within thirty (30) days of the Planning Board's next official meeting following filing of the application, the Planning Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application with reference to provision(s) of this Ordinance under which such additional information is required. After the Planning Board has determined that a complete application has been filed, it shall promptly notify the applicant in writing and begin its review of the proposed development. Additional application materials, such as the report of an expert, may be required at a later date if the need arises in the course of the Planning Board's review.

2. The Planning Board may hold a public hearing within thirty (30) days of Planning Board notice that a completed application has been received. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven (7) days prior to the hearing in a newspaper of area-wide circulation. The applicant shall promptly notify by certified mail the abutting landowners. Public hearings by the Planning Board shall be conducted according to the procedures outlined in 30-A M.R.S.A. §2691.

3. Within thirty (30) days of the public hearing or sixty (60) days of receiving a completed application, whichever is later, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning board and the applicant.

4. Within fourteen (14) days of reaching a decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

D. Application Fees

1. All applications must be accompanied by a fee of $25.00.

2. The applicant must deposit an amount equal to 2% of the estimated project cost in an escrow account established by the Town. The Board may use these monies to pay for professional

reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account. This notice shall specify the purpose for the proposed expenditures. Those monies deposited by the developer and not spent by the Planning Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

E. Any approval of the project by the Planning Board is conditioned on the conformity of the project to the description of the project in the application.

SECTION V. REVIEW STANDARDS

A. The Planning Board shall approve, deny, or approve with conditions all applications for a site plan review permit. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this Ordinance. After the submission of a complete application, the Planning Board shall approve an application or approve it with conditions if it makes a positive finding that the proposed use is consistent with the requirements of this Ordinance and satisfies every one of the following requirements as are applicable:

1. **Preserve and Enhance the Landscape:** The landscape shall be preserved in its natural state insofar as is practicable by minimizing tree removal and disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.

2. **Visual and Environmental Impact of Proposed Structures:** Special attention shall be paid to the bulk, location, and height and screening of the structure(s), and such natural features as slope, soils type and drainage ways, and to the scenic or natural beauty of the area aesthetics, historic sites, and rare and irreplaceable natural areas.

3. **Vehicular Access:** The proposed site layout shall provide for safe entrances and exits from public and private roads.

4. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation shall fully comply with applicable provisions of the Americans with Disabilities Act. This includes walkways, interior drives, and parking areas, which shall be adequate to the proposed project.

5. **Surface Water Drainage:** Adequate provision shall be made for erosion and sediment control and surface drainage so that removal of surface waters shall not adversely affect, in a material way, neighboring properties, downstream water quality, or the public storm drainage system.

6. **Existing Utilities:** The development shall not impose an unreasonable burden on public utilities.

7. **Advertising Features:** The size, location, design, and materials of all exterior signs and outdoor advertising structures or features shall not detract from the aesthetic appeal and design of proposed buildings, structures, and the viewsheds of surrounding properties. All illuminated advertising signs and motion screens shall be shielded from surrounding properties.

8. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall have sufficient additional setbacks and screening to provide an audio-visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties, as determined by the Planning Board.

9. **Exterior Lighting:** All exterior lighting shall be downwardly directed, shielded, non-flashing, and otherwise designed to minimize adverse impact on neighboring properties.

10. **Emergency Vehicle Access:** Provisions shall be made for providing safe emergency vehicle access to all buildings and structures.

11. **Municipal Services:** Development will not have an unreasonable adverse impact on municipal services including municipal road systems, fire department, police department, emergency medical unit, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

12. **Air and Water Quality, and Waste Control:** The proposed development shall be designed to be in full compliance with all applicable federal, state, and local laws, ordinances, codes, and regulations regarding air and water quality, and waste disposal. The Applicant shall show evidence of such design to the board

13. **Water Availability and Ground Water Protection:** Needs of the development shall not cause an unreasonable burden on an existing water supply, and shall not pose a significant risk of contaminating or depleting ground water.

14. **Shoreland Zoning Compliance:** Whenever situated in whole or in part, within 250 feet of any pond, lake, river, the development shall not adversely affect the shoreline of such body of water, and if located in the Shoreland Zone, shall be in compliance with the Shoreland Zoning Ordinance of the Town of New Sharon.

15. **Noise:** The proposed development shall not increase noise levels to the extent that abutting or nearby properties are adversely affected. In order to comply with this, the development must meet the following requirements.
    a) The maximum permissible sound level of any continuous, regular, frequent, or intermittent source of sound produced by any activity shall be limited according to the time of day and land use which abuts it as listed below, with measurements made at each abutting property line:

Abutting Land Use	Sound Level Limits dBA	
	7 a.m.-7 p.m.	7 p.m.-7 a.m.
Residential	55	45
Commercial	65	55
Industrial	70	60
Institutional	55	45

b) The following uses and activities shall be exempt from the sound pressure level regulations:
   1) Noises created by construction and temporary maintenance activities between 6:30 a.m. and 8:00 p.m.
   2) The noises of safety signals, warning devices, and emergency pressure relief valves and other emergency activities.
   3) Traffic noise on public roads.

16. **Hours of Operation:** The hours and operation will not substantially negatively impact the use and enjoyment of nearby property.

17. **Historical and Archeological Resources:** The proposed development will not significantly impair historical or archeological resources.

18. **Financial and Technical:** The Applicant shall demonstrate capacity to meet the aforementioned standards.

SECTION VI. ADDITIONAL PROVISIONS

A. The Planning Board may require the filing of a Performance Bond, or the execution of a conditional agreement or performance guarantee with the Town by the Applicant. The Planning Board, with advice of the Selectmen, Code Enforcement Officer, Town Attorney, Fire Chief, and Road Commissioner, shall determine the conditions and amount of any such bonding or agreements.

B. Any other local, state or federal permits, approvals, or licensing connected with the development excepting those conditioned on local approval, must be issued before any use permit will be issued by the Town.

C. Dimensional Requirements: Frontage, lot size, and setback distances shall be as the Planning Board determines are appropriate and shall be subject to the minimum criteria set forth below. The Planning Board may increase the minimum:

Structure Setbacks:

Shoreland setback	250 feet
Front setback from right-of-way or road	20 feet
Setback from all other lot lines	10 feet

Lot Area:
40,000 square feet
20,000 square feet within water district

Road Frontage:
150 feet
100 feet within water district

In making its determination as to the appropriate frontage and setback, the Planning Board shall provide the reasons for its decision. If the Planning Board requires a frontage or setback greater than the minimum, under the appropriate circumstances the Planning Board may require setbacks up to five hundred (500) feet. Factors that the Planning board may consider include: (1) the unique circumstances of the property and its proposed use; (2) whether the minimum requirements will produce an undesirable change in the character of the neighborhood; and (3) whether the minimum requirements will detrimentally affect the use, viewshed, or market value of abutting properties, and (4) the practicality of screening and buffering.

D. Any outdoor storage shall meet required setbacks and shall be screened from view of abutting residential property owners and streets by a solid wall or evergreen hedge. Such screening shall be properly maintained as a condition of the permit.

E. The Planning Board shall not find any industrial use to constitute a public nuisance by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration, or other disturbance, without first holding a public hearing, and determining that the emissions will substantially affect the use and enjoyment of properties.

F. Substantial construction of the elements covered by any site plan approval must be commenced within twelve months of the date upon which 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 deadline. Such request shall be made in writing and shall be made to the Planning Board. The Planning Board may grant up to two six-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.

SECTION VII. ENFORCEMENT

A. **Nuisances:** Any violation of this Ordinance shall be deemed a nuisance.

B. **Code Enforcement Officer:** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance and is given all powers to do so under 30-A M.R.S.A. Section 4452. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify by registered mail the person or persons responsible for such violation to their last known address, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of the illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. The notice shall

provide an appropriate period of time for the performance of any act it requires. A copy of such notices shall be maintained as a permanent record.

C. **Legal Actions:** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, shall institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.

D. **Fines:** Any person, corporation, or other entity who violates any of the provisions of this Ordinance or fails to comply with any of the requirements thereof shall be penalized in accordance with 30-A M.R.S.A. Section 4452, and by a fine of not less than $100 nor more than $2,500 per offence. Each day or partial day in violation shall constitute a separate offense.

SECTION VIII. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

A. **Validity and Separability:** Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

B. **Conflict with other Ordinances:** Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

SECTION IX. APPEALS

A. If the Planning Board approves an application that is objectionable to any abutting landowner or other aggrieved party, disapproves an application, or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party, may appeal the decision of the Planning Board's decision. The Board of Appeals shall review the record before the Planning Board, and shall not accept any new evidence. The Board of Appeals may reverse the Planning Board's decision and may grant a variance as defined herein. Public hearings shall be held according to Title 30-A M.R.S.A. Section 2691 subpart 3.

B. Appeals from any decision of the Board of Appeals shall be allowed and taken in conformity with the provisions of Title 30-A M.R.S.A. Section 2691 subpart 3.

SECTION X. AMENDMENTS

A. This Ordinance may be amended by majority vote at a regular Town Meeting upon request by the Selectmen or the Planning Board.

SECTION XI. DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. Words used in this Ordinance not defined herein, which are defined in the New Sharon Shoreland Zoning Ordinance, have the same meaning as defined therein. More specifically, certain words and terms used herein are defined as follows:

A. **Agricultural Land Management Practices:** Those traditional devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

B. **Accessory Use or Structure:** A subordinate use of a building, other structure or lot, or a subordinate building or other structure.

1. Whose use is customary in connection with the principal building, other structure or use of lot;

2. Whose use is clearly incidental to the use of the principal building, other structure or use of lot; and

3. Which is located on the same lot with the principal building, other structure or use of lot, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

C. **Bed and Breakfast Establishments:** A dwelling structure which offers sleeping and breakfast to temporary guests for payment.

D. **Building:** Any structure having a roof or partial roof supported by columns or walls used for the shelter or enclosure of persons, animals, goods or property of any kind. A building shall include a multiple-family dwelling.

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

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

G. **Construction:** All activities as described in Section III. A., other than repairs and modification in building equipment.

H. **Dwelling Unit:** A room or group of rooms designed and equipped for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing sleeping, living, cooking and eating facilities regardless of the time period occupied. Recreational vehicles are not residential dwellings.

I. **Forest Management Activities:** Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting and other

forest harvesting, regeneration of forest stands, and other similar associated activities, but not construction, creation, or maintenance of land management roads.

J. **Home Occupation:** An occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental 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.

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

L. **Institutional:** Of or by a governmental, educational, religious, medical, charitable, or nonprofit organization, either public or private.

M. **Lot:** Any portion, piece, or parcel of land.

N. **Lot of Record:** A contiguous defined parcel of land segregated from all adjacent land by deed, plat, or plan recorded in the Franklin County Registry of Deeds

O. **Mobile Home Park:** An area designed or planned for the placement of three or more mobile homes with design and lot size standards as required in the New Sharon Mobile Home Park Ordinance.

P. **Multiple-Family Dwelling:** A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

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

R. **Recreational Vehicle:** A vehicle or an attachment to a vehicle to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

S. **Residential Institutional:** A use providing recreation, counseling, education and/or other rehabilitative services where the individuals commonly reside at the facility.

T. **Retail:** Connected with the sale of goods to the ultimate consumer for direct use and consumption, and not for trade or resale.

U. **Road Frontage:** The horizontal distance, measured in a straight line, without regard to road curvature, between the points of intersection of the side lot lines with the edge of pavement or traveled way of the road.

V. **Setback:** The shortest horizontal distance from a lot line, road, or right-of-way limit to the closest point of a structure. Front setbacks of structures constructed after the effective date of this Ordinance are measured from the nearest right-of-way limit, when it can reasonably be determined or, when it cannot reasonably be determined, from the edge of pavement of a road or in the case of unpaved roads, from the edge of the traveled way.

W. **Single Family Dwelling:** Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.

X. **Structure:** Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground (such as decks, walkways, driveways, surfaced parking areas, patios, etc…), exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops such as guying and guy anchors. The term includes structures temporarily or permanently located.

Y. **Substantial Enlargement:** An expansion of the land area of the development site and/or structure by more than 25% within any five-year period.

Z. **Use:** Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained or occupied; also any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

AA. **Variance:** A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and the purpose of the Ordinance where, owing to conditions peculiar to the property and not the result of the actions of the Applicant, a literal enforcement of this Ordinance would result in undue hardship. A financial hardship shall not constitute grounds for granting a variance. In granting any variance the Board of Appeals shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.