`SITE PLAN REVIEW ORDINANCE FOR THE TOWN OF SEARSPORT, MAINE

SECTION I - PURPOSE

Development or changes in the uses of land can cause a profound impact upon the cost and efficiency of municipal services and upon the environment of the town. Such development can impact schools, sewers, waterlines and other public utilities: recreational facilities; liquid and solid waste disposal; police and fire protection; open space; road systems and circulation; traffic congestion; placement of building(s) and structure(s); property values; water quality; the aesthetic and visual characteristics of the neighborhood and town, and the general health, safety and welfare of the community. It is the purpose of this Ordinance to control such impacts when caused by development; including commercial, retail, industrial, institutional building(s) and structure(s) and multi-family dwellings consisting of three-or- more attached dwelling units, and the establishment of a new non-residential use, even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other non-structural non-residential uses. This Ordinance shall not apply to structures used exclusively for single or two-family residences.

SECTION II - DEFINITIONS

The terms used in this Ordinance shall be defined as follows. If a term used in this Ordinance is not defined below, but is defined by the Land Use Ordinance, the definition in the Land Use Ordinance shall control.

Abutting Property / Abutter - 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. An abutter is the owner or occupant of such a lot.

Accessory Use of Structure - A subordinate use of a building, other structure or a subordinate building or structure:

1. Whose use is customary in connection with the principal building, other structure or use of land; and
2. Whose use is clearly incidental to the principal use of land; and
3. Which is located on the same lot with the principal building, other structure, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.

Alteration - A change, expansion or rearrangement in the structural parts or in the means of ingress or egress, or the addition of any new structure to an existing use. For uses other than industrial uses that are subject to this Ordinance, the enlargement of any existing structure or construction of any new structure involving a less than 25% increase in the overall floor space or bulk of the development since the enactment of this ordinance or the last site plan approval for the development (whichever is more recent) shall not be considered an alteration.

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. Where independent units with separate entrances are divided by walls, each unit is a building.

Change of Use – The change in the type or intensity of uses subject to this Ordinance. For example, a gift shop to a restaurant is a change of use. One gift shop to another gift shop is not, provided the intensity of use is unchanged. Intensity of use is to be a preliminary assessment by the Code Enforcement Officer of conditions such as, but not limited to, operating hours, noise, exterior lighting, amount of customer traffic, or signage. If the Code Enforcement Officer finds that the overall intensity of use will be increased by 25% or more, the activity shall be reviewed as a change of use. The Planning Board may refuse jurisdiction upon a contrary finding.

Commercial - The buying or selling of goods or services or the provision of facilities for a fee.

Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as living quarters or residence for one family, including provisions for living, sleeping, cooking and eating.

Industrial - Use of a premises for assembling, fabricating, finishing, manufacturing, distilling, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations, repair shops and the extraction of minerals.

Institutional - A building or use devoted to some public, governmental, educational, charitable, medical or similar use.

Multi-Family Dwelling Unit - A building or structure containing three (3) or more dwelling units.

Party - The applicant(s), his or her authorized agent, all abutting property owners, and such other individuals or organizations as the Planning Board, at its discretion, finds to have a reasonable and identifiable interest in the proposed project.

Persons - Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, educational, or charitable organization or institution or legal entity.

Property Value –The Fair Market Value of a Searsport property as determined by a certified appraisal if offered, or if not offered, by clear and convincing evidence only offered by the actual property owner(s). The burden of proving whether a property value has or will substantially change is on the actual property owner(s), but rebuttal evidence may be offered by the applicant(s).

Rare and Irreplaceable Natural Areas – National, state or municipal parks, nature preserves owned by a land trust, Maine Audubon Society, the Nature Conservancy or a similar entity, federal or state-designated wilderness areas, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location.

Retail - Any business engaged primarily in the sale or resale of goods and services to the consumer.

Structure - Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Subdivision - The term subdivision, as defined in the Subdivision Ordinance for the Town of Searsport, Maine, shall, for purposes of this Ordinance, include commercial, retail, home occupation; industrial, institutional building(s), structure(s), and multi-family dwellings.

Substantial Enlargement - An expansion of the land area of the development site. For uses other than industrial uses that are subject to this Ordinance, substantial enlargement shall not include expansion of the development site if such expansion will not cause the total land area dedicated to the use to be increased by more than 25% since the enactment of this ordinance or the last site plan approval for the development (whichever is more recent).

Unreasonable Adverse Effect - Means any unreasonable risk to man, the environment, existing municipal services, Property Values, natural resources, and historic areas, taking into account the economic, social and environmental costs and benefits with the project.

SECTION III - AUTHORITY AND ADMINISTRATION

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution; Title 30-A MRSA § 3001.

2. No building permit, plumbing permit or certificate of occupancy shall be issued by the Planning Board or the Code Enforcement Officer for any use or development within the scope of this Ordinance until a Site Plan of Development Application has been reviewed and acted upon by the Planning Board.

SECTION IV – APPLICABILITY

This Ordinance shall apply to all development proposals for new construction or alterations or substantial enlargements or change of use to commercial, home occupation, retail, industrial, institutional and multi-family dwellings, buildings and their accessory uses, and structures. This Ordinance shall not apply to structures used exclusively for single or two-family residences.

SECTION V - SITE PLAN CONTENT AND APPLICATION PROCEDURES

A. The Site Plan of Development Application shall include the following items. The Planning Board may, upon request from the applicant or on its own initiative, waive items not applicable to the development or may require information not specified below but which is pertinent to the development:

1. A map or maps prepared at a scale of not less than one (1) inch to 50 feet, which shall include:

a. Name and address of the applicant or his/her authorized agent, name of the proposed development

and identification of any land within 500 feet of the proposed development in which the applicant has title or interest.

b. Boundaries of the tract of land certified by a registered land surveyor.

c. Existing soil conditions as described by a registered soil scientist, geologist or engineer.

d. Copies of pertinent municipal tax maps with lot numbers and names of abutting property owners.

e. Location of existing and proposed buildings and other structures, including use and proposed use thereof.

f. Location, size and elevation of buildings on abutting properties or within 200 feet of the property line of the proposed development.

g. Location of existing public streets.

h. Location and design of proposed access drives to the lot from public streets.

i. Location, design and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.

j. Location of existing and proposed pedestrian walkways.

k. Location of existing and proposed utilities and easements including sanitary sewage, water, electricity and public rights-of-way. If the site is not to be served by a public sewer system, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided.

l. Location of existing natural drainage ways and proposed storm drainage facilities including dimensions of culverts, pipes, etc.

m. Location, intensity, type, size and direction of all outdoor lighting.

n. Location and size of signs and all permanent outdoor fixtures.

o. Landscape plan showing location, type and approximate size of plantings and location and dimension of all fencing and screening.

p. Contour lines at appropriate intervals to show the effect on the land of existing and proposed grades.

q. Location of any affected groundwater aquifers and aquifer re-charge areas.

r. An Architectural Rendering of all proposed buildings.

2. A written statement by the applicant that shall consist of:

a. Evidence by the applicant of his title and interest in the property, or evidence that the applicant has entered into a binding purchase and sales agreement in the property, for which the application covers.

b. A description of proposed uses of the site.

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

d. Description 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. Where the proposed development site includes, or is within 100 feet of the shoreline of tidal waters, a determination of whether this shoreline is currently eroding. If the shoreline is determined to be eroding, the following information shall be provided: An evaluation of the current rate of erosion; a projection of the location of the shoreline in fifty years; and an evaluation of the effect, if any, of the proposed project on shoreline stability.

h. Statement of financial capacity providing the total estimated cost of the proposed development and demonstrating the applicant or owner's financial ability to complete all facets of the proposed development, which should include the names and sources of the financial parties, including banks, government agencies, private corporations, partnerships and limited partnerships, and whether these sources of financing are for construction loans or long term mortgages, or both.

i. List all required local, state and federal permits/licenses pertaining to the development or planned use of the site.

j. The applicant's evaluation of the need, availability and suitability of off-site public facilities, including sewer, water, streets, parking, solid waste and schools.

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

B. Application Procedures

1. The application accompanied by the appropriate fee shall be filed with the Code Enforcement Officer for a preliminary completeness review. Upon receipt of an application, the Code Enforcement Officer or his/her designee shall notify and solicit comment from the Selectmen, Town Manager, Public Works Director, Fire Chief, Police Chief, EMA Director, EMS Director, Water District Superintendent, if serviced by public water, and Waste Water Superintendent, if serviced by public sewer. As part of the preliminary completeness review, the Code Enforcement Officer shall

ensure that the record includes comments from the Public Works Director, Fire Chief, Police Chief, EMA and EMS Directors and Water and Waste Water, Superintendents, if applicable, as to the adequacy of existing town facilities for the proposed development.

Within 30 days of the filing of an application, the Code Enforcement Officer or his/her designee shall notify the applicant that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. Any waiver of submission requirements shall be requested by the Applicant, and the Code Enforcement Officer shall refer any such request to the Planning Board.

After the Planning Board receives notice that the Code Enforcement Officer has determined that a complete application has been filed, it shall notify the applicant and begin its review of the proposed development. The Planning Board may request additional submissions from the applicant at any time during the course of its review if reasonably necessary to apply the standards of this or any other town ordinance.

2. When the Planning Board determines it is necessary, it may, after notification to and at the expense of the applicant, employ one or more independent consultants. The estimated costs of such consultants must be deposited with the Town of Searsport prior to employing any independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the Town of Searsport before Site Plan approval may be granted.

3. Within 30 days of receiving the application from the Code Enforcement Officer, the Planning Board shall review the completeness of the application and act on any requests for waivers. The Planning Board shall hold a public hearing within 30 days of the filing of its determination that the application is complete. The Planning Board shall post and notify the applicant of the time; date and place of the hearing. The Planning Board shall have published, at least seven days prior to the hearing in a newspaper of area-wide circulation, the time; date and place of the hearing. When possible, abutters' notices will be sent out at least seven days prior to the hearing by regular mail, the failure of which shall not constitute grounds for the invalidation of any approval issued under this Ordinance.

4. Public Hearings on applications shall be handled according to the procedures outlined in 30-A MRSA § 2691, subsections 3 (A), (B), (C), (D) and (E).

5. Within 30 days of the public hearing, or within 60 days of receiving the complete 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.

6. Within seven days of reaching their decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.

7. Any of the procedural deadlines related to the holding of hearings or issuance of a decision may be waived or extended with the applicant's consent.

8. Within two years immediately following the date of application approval by the Planning Board, the project must be fully completed or a substantial start must have been undertaken. Substantial start shall mean that at least 30% (30 per cent) of the project must have been completed within this two-year period. One year extensions of the 2-year time limit may be granted by the Planning Board for delays caused by factors beyond the applicants' control, such as but not limited to: probate, legal morass, State and Federal regulatory delays, acts of God, etc.

9. Should any use, subject to the provisions of this Ordinance, be discontinued for two continuous years, such same use may not commence again without an approval of the Code Enforcement Officer.

10. Changes to Approved Plans: Substantial enlargements, alterations or changes of use from the original approved plan require Planning Board review and approval in accordance with this Ordinance, except that the Planning Board may waive submission requirements and review criteria related to elements of a development that will remain unchanged or that will not be impacted by the change of use or substantial enlargement.

SECTION VI - STANDARDS OF APPROVAL

The following standards are to be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the site plan. The site plan shall not be approved unless, in the judgment of the Planning Board, the applicant is reasonably able to meet each of the following standards. In all instances the burden of proof shall be on the property owner and shall require the production of evidence necessary to complete the application and satisfy the Planning Board as to the ability to meet each standard of approval.

1. Preserve and Enhance the Landscape: The landscape shall be preserved in its natural state insofar as is practicable, given the type of allowed use, by minimizing tree removal and disturbance of soil, and by 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 public walks, public rights-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 lands and uses. For commercial and industrial subdivisions, due consideration shall also be given to the location of building(s), parking areas and other structures, within those areas of the property to be subdivided, that are most suitable for such uses. Areas deemed unsuitable for development, or possessing important natural or scenic values, shall be maintained in a natural condition. In this regard, particular consideration shall be given to Shoreland and marine resources.

2. Relationship of Proposed Buildings to Environment: Proposed building(s) or structure(s) shall, to the greatest extent practicable given the type of allowed use and applicable dimensional allowances, be related harmoniously with the surrounding terrain and to existing buildings within the vicinity which have a visual relationship to the proposed building(s) or structure(s). Special attention shall be paid to the bulk, location, height, and siding of the building(s) or structure(s) and to such natural features as slope, soil type, drainage ways, and important wildlife habitats.

3. Vehicle Access: The proposed site layout shall provide for safe access and egress from existing or proposed public and private roads. The layout shall indicate the location(s), number(s), and any on-site control(s) of these access/egress points, as well as any turning lanes and traffic signs or signals when required by existing or projected traffic flow on the existing or proposed public and private roads.

4. Parking and Circulation: The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.

5. Surface Water Drainage: Adequate provision shall be made for surface drainage so that the removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, slope stability or public storm drainage systems. Whenever possible, on-site absorption of run-off surface waters shall be utilized as a means of minimizing discharge from the site and to retain the natural drainage patterns.

6. Existing Utilities: The development shall not impose an unreasonable adverse effect on sewers, sanitary and storm drains, water lines or other public utilities.

7. Advertising Features: The size, location, design, lighting and materials for all exterior signs and outdoor advertising structure(s) or features shall not cause unreasonable adverse effects on surrounding properties or cause unsafe traffic conditions.

8. Special Features of the Development: Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structure(s) shall have sufficient setbacks and screening so as to provide an audio/visual buffer sufficient to minimize their unreasonable adverse effect on other land uses within the development area and surrounding properties, and on recreational uses of public waters. Audio/visual buffering shall be reasonable given the type of use and applicable dimensional allowances, the type and proximity of surrounding uses, and the characteristics of the neighborhood. Any specific buffering requirements in the Land Use Ordinance shall be met, but the Planning Board may apply more stringent buffering requirements as set forth above.

9. Exterior Lighting: All exterior lighting shall comply with the Land Use Ordinance and shall be designed so as to minimize unreasonable adverse effect upon neighboring properties. Fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by pedestrians or from adjacent dwellings, and do not unnecessarily light the night sky.

10. Emergency Vehicle Access: Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to ail buildings and structures at all times.

11. Municipal Services; The development will not have an unreasonable adverse effect on the municipal services, including municipal road systems, fire departments, police department, solid

waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

12. Water Pollution: Adequate provision shall be made to prevent an unreasonable adverse effect upon the quality of water. In addressing this matter, the layout plan shall indicate consideration of land elevation above sea level and its relationship to the flood plains, as well as the nature of soils and sub-soils and their ability to adequately support waste disposal. The layout plan shall also show consideration of the general slope of the land, and the slope's effect on effluents, any aquifer and aquifer re-charge areas; availability of streams or brooks for surface water runoff; the effect of project surface water runoff on Shoreland and marine resources; and applicable federal, state and local laws, ordinances, codes and regulations.

13. On Site Water Supply: The layout site plan shall indicate that sufficient water supply is available for reasonably foreseeable needs of the development without causing an unreasonable adverse effect on an existing water supply.

14, Soil Erosion: 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 are 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. The applicant shall utilize an active program to minimize soil erosion and sedimentation of watercourses and water bodies.

15. Septage Disposal: The layout plan shall provide for adequate septage waste disposal in conformance with pertinent state and federal laws.

16. Adverse Effects: The development shall not have unreasonable adverse effects upon designated historic sites, important wildlife habitats or rare and irreplaceable natural areas or property values.

17. Financial Capacity: The applicant shall demonstrate adequate financial and technical capacity to meet above standards.

18. Air Quality: the development shall not significantly add to the existing air pollution.

SECTION VII - GENERAL PROVISIONS

A. The Planning Board may, upon reviewing the application, impose any conditions on the applicant that the Planning Board deems necessary in order to bring the application into compliance with this Ordinance.

B. The Planning Board may require the filing of a Performance Bond, other financial security, or the execution of a conditional agreement with the municipality by the applicant, if deemed reasonably necessary to ensure the completion of all project elements shown on the Site Plan or required by condition imposed by the Planning Board.

C. All construction, performed under the authorization of a building permit or certificate of

occupancy, issued for the development within the scope of this Ordinance, shall be in conformance with the approved plan. It shall be a violation of this Ordinance to develop any approved project other than in accordance with the approved site plan, representations made in the Site Plan Review Applications, or any conditions attached to the approval, unless appropriate approvals are obtained under this and other applicable ordinances.

D. The application fee schedule, cited in Section V, subsection C. 1., shall be determined by the Municipal Officers upon recommendations of the Planning Board.

SECTION VIII - VIOLATION, ENFORCEMENT AND PENALTIES

A. Violation and Enforcement: The Code Enforcement Officer shall enforce the provisions of this Ordinance and shall report all violations to the Board of Selectmen, who are authorized to institute legal proceedings to enjoin violations of this Ordinance.

B. Penalties: Any person or persons who violate any provision(s) of this Ordinance or any permit issued under the provisions of this Ordinance, shall, upon conviction in Maine District Court, be subject to civil penalties in accordance with the provisions of Title 30-A MRSA § 4452, and the penalties provided for therein shall be assessed for each day of the violation.

C. Obtaining a permit under this ordinance through knowing misrepresentation of facts is a violation of the ordinance and subject to prosecution under this ordinance and 30-A MRSA section 4425.

SECTION IX - APPEALS

If the Planning Board disapproves an application, or grants approval-with-conditions that are objectionable to the applicant or any abutting property owners 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, abutting property owner(s) or aggrieved party may appeal the decision of the Planning Board, in writing, to the Board of Appeals within 30 days of the Planning Board's official written decision.

The Board of Appeals may, after holding a public hearing, sustain, reverse or modify the Planning Board's decision in accordance with the Board of Appeals Ordinance.

SECTION X - CONSTRUCTION

A. Severability: Severability is intended throughout the provisions of this Ordinance. Should any provision, including among other things any exceptions, part(s), phrase(s) or term(s) or the application thereof to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.

B. Suppression: This Ordinance supersedes and replaces any and all like or comparable ordinances, policies or decisions previously enacted and in force within the Town of Searsport, and shall remain in effect until or unless revoked, or superseded by action of the voters of Searsport.

C. Amendments: From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised, or deleted. Such action shall be proposed at town meeting to the voters of Searsport by the Board of Selectmen. Approval of any amendments, revisions or deletions rests exclusively with the voters of Searsport.

SECTION XI - ADOPTION

This Ordinance was submitted to the voters of Searsport and adopted at a Town Meeting held on the 8th day of March, 1986.

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 14th day of March, 1992.

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 8th day of March, 2003.

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 31st day of January, 2006.

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 10th day of March, 2012.

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 7th day of March, 2015

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 5th day of March, 2016

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 11th day of March, 2017

This Ordinance was amended by the voters of Searsport at a Town Meeting held on the 10th day of March, 2018

This is a true and attested copy by: _____
Deborah Plourde, Town Clerk