

Chapter 8

Site Plan Review Ordinance

Site Plan Review Ordinance

Town of Milford

Section 1 Purpose:

Large scale development or major land use change have a profound effect upon the cost and efficiency of municipal services and upon the environment of the Town of Milford. Unplanned development may result in overcrowded schools and highways, increased costs of municipal services, degrading of the air and water quality, as well as general health, safety, welfare of the residents.

The purpose of this ordinance is to insure an orderly growth of the Town and to minimize the effects of that growth when caused by development, by way of but not limited to: commercial, industrial, retail, or institutional buildings, structures and/or uses, multiple dwellings of three (3) or more attached units and campgrounds.

Section 2 Authority:

2.1 This ordinance is enacted pursuant to the authority given the Town in 30A MRSA 3001 (Home Rule), and 30 MRSA 3221 (Soil Suitability Prior to Construction).

2.2 The effective date of this ordinance shall be thirty (30) days after it is adopted by vote of the legislative body of the Town of Milford.

2.3 This ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law.

Section 3 Administration:

3.1 The Code Enforcement Officer shall enforce all State Plumbing laws and the regulations of this ordinance with the assistance from the Town Selectmen.

3.2 The Code Enforcement Officer shall immediately report any violations of this ordinance to the Board of Seletmen.

Section 4 Criteria and Standards:

4.1 The following criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan review. These standards are intended to provide a guide for the applicant in the development of site and building plans as well as a method of review for the Board. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention and innovation.

A **Preservation of Landscape:** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas.

If a site includes a ridge or ridges which are elevated above the surrounding areas and provide scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Buildings shall be located so that they are not clearly visible from surrounding areas. Siting away from the skyline, plantings and bufferings landscaping are potential methods of the preserving the scenic vista.

B **Relation of Proposed Buildings to the Environment:** Proposed structures shall be related harmoniously t the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the scale of the proposed building(s), massing of the structure(s), and such natural features as slope, orientation, soil type, and drainage courses.

C **Vehicular Access:** The proposed layout shall endure that vehicular and pedestrian traffic conditions shall not exceed reasonable limits for the neighborhood. Special consideration shall be given to the location, number, and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, and existing or proposed traffic signalization and pedestrian-vehicular contacts.

D **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall consider general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the

arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed building and neighboring properties.

E **Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that, removal of surface waters will not adversely affect neighboring properties, down-stream conditions, or the public storm drainage system. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be bases on a ten year storm frequency.

F **Utilities:** The site plan shall show what provisions are being proposed for water supply and wastewater disposal, electric, telephone, and other utility lines shall be installed underground.

Section 4 Applicability:

This ordinance shall apply to all development proposals including but not limited to:

1 New or substantial enlargements of commercial, retail, industrial, institutional, and recreational building(s), structure(s), and uses.
2 Multifamily dwellings consisting of three (3) or more attached dwelling units and their accessory uses and structures.
3 Campgrounds.
4 Condominium development.
5 New uses of existing structures or land or existing 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.

Section 5 Review of Development:

5.1 The Board is hereby authorized to review development for conformance with the criteria stated herein and the performance standards of the Town of Milford Subdivision Ordinance and The Floodplain Ordinance. A developer or his authorized agent shall be required to obtain Board approval prior to the issuance of a building permit for all development except the following:

A Single family dwellings on individual lots,

B Subdivisions already subject to Board review under the Town of Milford Subdivision Ordinance, 30MRSA §4956.

5.2 No person subject to the provisions of this ordinance shall commence work, including site preparations, or convey, or offer to convey interest in a development or portion thereof prior to Board approval.

Section 6 Definitions:

All terms used herein shall have their dictionary or common interpretation except as herein noted:

Board: The Planning Board

Developed Area: The total area of the project which is covered by buildings, paved or graded areas, or drainage structures, and no to be revegetated.

Development: Building or engineering operations which by their nature create an intensification of land use or an increased demand for public service.

Setbacks: Required separation between structures and streets, lot lines or water bodies.

Section 7 Preapplication:

7.1 Procedure.

A Applicant presentation and submission of sketch plans.

B Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

C Scheduling of on-site inspection.

7.2 **Submission:** The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings, and other features in relation to existing conditionsry. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the Sketch Plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land

is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed project, unless the proposed project is less than ten acres in size.

7.3 **Contour Interval and On-Site Inspection:** Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection.

7.4 **Rights not Vested:** The submittal or review of the preapplication sketch plan shall not be considered the initiations of the review process for the purposes of bringing the plan under the protection of Title 1, MRSA §302.

Section 8 **Procedure:**

8.1 Any person requiring review under this article shall submit an application addressed to the Board Chairman and delivered to the Town Office during regular business hours. A complete application shall consist of a cover form prescribed by the Board together with fees and all submissions listed in Section IV herein. The chairman shall present the application to the Board at the next scheduled meeting. A determination of completeness shall be made by the Board within 45 days of presentation of the application. The following standards shall be used in determining completeness:

A The Board may prescribe and .use a checklist to reflect the submission requirements in Section

B The Board may make a physical inspection of the site for the purpose of determining whether additional submissions will be required, in accordance with section 8.2.

C The Board may, by formal action, waive submission requirements which it may find to be unnecessary for proper review.

D Where review by the Board of Appeals or by any state or federal regulatory body is indicated, the final decision on such review shall accompany the complete application.

8.2 The application fee shall be $100.00.

8.5 At the time of the determination that the application is complete, the Board shall schedule a public hearing for the next available time on the Board's agenda. Public notice of the hearing shall be placed in a newspaper or general circulation within the Town at least seven (7) days prior to the date of the hearing. Notice shall also be sent to the Selectmen, Fire Chief, the CEO and to all landowners abutting the subject property, provided that failure of those notified to receive such notice shall not invalidate the decision of the Board.

8.6 The applicant shall be notified by certified mail that his application is complete, of the timetable for the review, and any additional requirements or questions associated with the application.

8.7 The following rules shall apply to the public hearing:

A The Board may receive oral or documentary evidence addressing the application, but may exclude evidence which it considers irrelevant, immaterial or unduly repetitious.

B The Chairman shall determine the order of presentation of parties to the hearing. Any party may be represented by agent or attorney.

C The CEO and such other Town Officers and staff as may have an interest in the application may present evidence before or during the hearing.

D The Board may continue the hearing to another time and location, including the site of the development, as it deems necessary.

8.8 The Board shall approve, approve with conditions, or deny an application for site review within forty-five (45) days of the closing of the hearing. Written notice of the decision shall be mailed to the applicant within seven (7) days thereafter. Failure of the Board to act in the affirmative shall constitute denial, provided that the Board may grant applicant's request for an extension of the time period for the purpose of introducing additional evidence.

8.9 Action by the Board shall be based upon written findings of fact and conclusively certify or waive compliance with those performance

standards listed in Section 4, which certify that the developments meets the following criteria:

A Maintenance of traffic Level of Service "D" or above at all intersections receiving five percent or greater increase and reserve capacity on affected public streets;

B Sufficient parking and traffic circulation on the site of the development to avoid conflicts with adjoining properties and streets.

C Building locations or engineering measures to ensure that wetlands and water bodies will not be adversely affected by erosion, runoff, or pollutants;

D Treatment of all sanitary and solid wastes in a manner approved by qualified professionals, together with written agreements showing the transportation, disposal and storage of hazardous materials according to state and federal requirements;

E Design measures to ensure the capability of the land and water systems to sustain the proposed use without long-term degradation;

F Protection of public resources identified in the Comprehensive Plan or related study, including surface and subsurface water supplies, shore land areas, wildlife areas, and access thereto;

G Showing that public facilities will not exceed their respective capacities, including sewer, water, fire protection, police protection, school;

H Showing of sufficient financial backing and technical resources of the applicant to complete the proposed development.

8.3 Inspection of Required Improvements

A At least fifteen (15) days prior to commencing construction of required improvements, the developer shall notify in writing the Code Enforcement Officer of the time when he proposes the commence construction of such improvements so that the Town Manager can cause inspection to be made to assure that all

specifications and requirements shall be met during the construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board. Inspection shall be made of all required public improvements as defines above.

B At least five (5) days prior to commencing construction of required improvements, the sub divider shall pay an inspection fee equal to the estimated cost of inspection by an engineer appointed by the Town, payable by check to the Town of Milford stating the purpose of the fee.

No building permits shall be issued on the project and no work begun until the inspection fee has been paid.

C If the inspector shall find, upon inspection of the improvement performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the sub divider, he shall so report to the Town Manager, Road Commissioner, and Building Inspector. The Town Manager shall then notify the sub divider and, if necessary, the bonding company or bank, and take all necessary steps to preserve the municipality's rights under the bond or letter of credit. No plan shall be approved by the Board as long as the sub divider is in default on a previously approved plan.

D If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the inspector that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the inspector may, upon approval of the Town Manager, authorize modifications, provided these modifications are within the spirit and intent of the Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Board. The inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board.

E Upon completion and final inspection of all required improvements, any funds remaining in a project's inspection fee

account, after all inspection fees have been paid shall be returned to the sub divider.

F The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the Town of Milford.

8.4 The performance guarantee shall not be released by the Town Manager until:

A The inspecting engineer has completed his final inspection of the project and has submitted a written report stating that all required public improvements as defined above have been completed in accordance with approved plans and specifications.

B The Town Manager and Code Enforcement Officer have examined the site, have reviewed the inspecting engineer's report and concur with his findings.

C Performance guarantees collected on phased work segments shall be released in the same manner as outlined above, upon the completion of each phase.

8.10

A Approval by the Board shall take the form of an agreement between the Town of Milford and the applicant, incorporating as elements the application, the Board's findings of fact and conclusions, and such conditions as the Board may impose upon approval. The Board and the applicant shall acknowledge the agreement in writing (by signature on site plans) prior to the commencement of work.

B Conditions of the Board's approval shall be intended to ensure conformance with approval criteria. They may include, but are not limited to, increased setback and yard space, specifications for type of sewage and water supply facilities, off-site improvements, vegetative or structural buffers and screens, location of buildings, docks, parking or signs, type or style of constructions, operating requirements for handling of hazardous waste, deed restrictions, and period of maintenance sureties.

C Where improvements for the common use of lessees or the general public have been approved, the Board shall require a bond or the equivalent committing to 100 percent of the estimated cost of said improvements.

D The Board shall send copies of the approval to the Town Manager and the Selectmen.

E The approval of the Board shall expire if work on the development is not commenced within six (6) months or substantially completed within one (1) year. The Board may, by formal action, grant an extension of the completion deadline for a period of no more than one (1) additional year.

8.11 Any party aggrieved by a decision of the Board under this Article may appeal the decision to the Board of Appeals within thirty (30) days of the date of decision.

Section 9 Submission Requirements:

9.1 A completed application for site review shall consist of five (5) copies of required plans on sheets measuring no smaller than 11" X 17" and no larger than 12" X 36", and five (5) sets of attachments. Plans shall be drawn to a scale of no greater than 1"=50' for developments under ten acres and 1" = 100' for all others. Documentation for the plans shall be provided in one (1) copy of a design folder.

9.2 The submission shall contain the following items, unless the Board, by formal action, waives specific requirements:

A A title block in the lower right hand corner containing the name and address of the applicant and property owner. The name a address of the preparer of the plan, with professional seal, if applicable. Location of the property according to municipal tax maps. The date of plan preparation or revision, and an ID number unique to the plan.

B A standard boundary survey conducted by a surveyor licensed in the State of Maine, with sufficient information to identify and locate interior and exterior boundaries, rights-of-way and street alignments.

C An arrow showing true north and the magnetic declination, a graphic scale, and a signature block for members of the Board.

D Location and description of all buildings existing or to be placed on the site and floor plans and front elevations of principal buildings.

E Acreage of the total parcels, of rights-of-way, wetlands, and developed areas.

F Location of physical features such as ledge, wetlands, watercourses, sand and gravel aquifers, and forested areas.

G Location and design details of existing and proposed utilities, including power, water, sewer, or septic system and drainage structures.

H Location of any park, open space or conservation easement.

I Location of any permanently installed machinery likely to cause appreciable noise at the lot lines.

J Existing contours and finished grade elevations within the site, together with proposed landscaping and buffering treatments.

K Location and necessary design details of all parking and paved areas, sidewalks, curbing, signs, fencing, and other site improvements.

L A location map showing the property in relation to other properties and roads in the general vicinity.

M A plan for the control of erosion and sedimentation endorsed by the Penobscot County Soil Conservation District showing measures proposed to prevent pollution of surface, ground water and soil erosion.

N A plan for the treatment of storm waters of a 2 year and a 25 year storm, prepared by a registered professional engineer showing measures proposed to prevent increased runoff and change in groundwater levels and flooding.

O A copy of the soil survey map of the area. Where the map shows soils with severe restrictions for development, a high-intensity soil survey shall be provided.

P Description of any raw, finished, or waste materials to be stored outside the building and any stored material of a hazardous nature.

Q Documentation of the applicant's legal interest in the property.

R Text of all encumbrances currently on the property and all encumbrances proposed to be placed on the property.

S A list containing names and mailing addresses of all owners of record of property abutting the proposed development.

T Description of the type and placement of sewage facilities:

1 Where disposal will be accomplished through subsurface waste disposal system, an analysis of test pits prepared by a licensed site evaluator, with at least two passing test pits located on the plan.

2 Where disposal will be accomplished through a public or community system, certification of approval by the sewer plant superintendant.

3 Where disposal will be by an engineered private system, prior to approval by the Department of Human Services.

V Indication of water supply sufficient in quantity and quality for both normal use and fire protection. Where public water will be used, a certification of sufficiency from Old Town.

9.3 In its consideration of an application, the Board may require the applicant to submit such additional materials, studies, analyses and proposals as it may deem necessary for a complete understanding of the development. Such materials may include the following categories:

A **Facilities Analysis:** Examination of the impact of the development upon capital facilities of the Town, such as schools, water supply, public sewer, recreation facilities or highways.

B **Transportation:** Existing and proposed traffic conditions, including capacity, daily and peak hour levels of service, and the need for street traffic control improvements.

C **Environmental:** Relationships between the development and affected land and water resources, which may include lake watersheds, aquifer protections or hazardous material storage.

Section 10 Special Regulations:

The following regulations shall be complied with in addition to the performance standards contained in Section 4 of this Ordinance.

10.1 An institutional use requiring federal, state and/or local licensing shall obtain such license before acceptance of the plan by the Board.

10.2 The applicant shall furnish the Planning Board detailed information relating to projected numbers and types of clients; planned and projected numbers of staff and duties, so that the Planning Board can determine the availability of necessary Town services.

10.3 Total population comprised of clientele and live in staff not to exceed thirty five (35).

10.4 The Planning Board, as a condition of approval, may require assurances or bond to protect the health, safety and general welfare of the community.

10.5 All residential child care and/or educational institutions and/or facilities shall comply with the rules for the Licensure of Residential Child Care Facilities as adopted by the Department of Mental Health and Mental retardation, Department of Educational and Cultural Services, Bureaus of Mental Health and Bureau of Instruction.

10.6 Any industrial use which is found by the Planning Board to constitute a public nuisance by reason of the emission of dust, fumes, gas, smoke, order, noise, vibration or other disturbance shall be expressly prohibited. No such finding shall be made by the Planning Board until after a public hearing has been held.

10.7 Any outdoor storage of articles, supplies and material shall not be within the required setbacks and shall be screened from view of abutting residential property owner or streets by a solid wall or evergreen hedge.

10.8 Dimensional requirements: Lots for residential institution, industrial and commerce shall meet the following standards.

Minimum Frontage	100 Feet
Minimum front setback from Right of Way	100 Feet
Minimum side and rear setback	100 Feet
Minimum shore land setback	250 Feet

Section 11 **Enforcement:**

11.1 Nuisances: Any violation of this ordinance shall be deemed to be a nuisance.

11.2 If any provision of this Ordinance is being violated the persons responsible for the violation will be notified by registered mail, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land buildings, structures, or work being done, removal of illegal buildings or structures, abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

11.3 Legal Actions: When the above action does not result in abatement of the violation or nuisance condition, the Municipal officers are hereby required to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions on violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the ordinance in the name of the municipality.

11.4 Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply with all of the requirements thereof shall, upon conviction, be punished by a fine of not less than $100 nor more than $2,500, and each day on which such violations shall continue as a separate offense.

Section 12 **Validity and Separability with Other Ordinances:**

12.1 Validity and Separability: Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall no invalidate any other section or provision of the ordinance.

12.2 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 shall apply.

Section 13 Appeals:

If the Planning Board disapproves an application or grants approval with the 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 or any abutting landowner or any 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 decision. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing and may grant a variance as defined herein. Public hearings shall be held according to title 30, MRSA section 2411.

Section 14 Amendments:

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