

**ARTICLE 7 DEVELOPMENT REVIEW (Applicability, Waivers, Pre-Application and Administrative Procedures)**

**A. APPLICABILITY**

For structures and uses, which specifically require Development Review as, set forth in Article 4, Table of Land Uses, and a change of use when the new use is subject to Development Review.

**Development Review shall also be required for:**

- 1. The construction or placement of a structure or building intended for any of the following uses:**
  - a. commercial
  - b. industrial
  - c. public, semipublic, and institutional
  - d. multifamily dwellings

- 2. The establishment of any of the following new uses whether or not a building or structure is involved:**
  - a. commercial
  - b. industrial
  - c. public, semipublic, and institutional
  - d. multi-family use

- 3. In the Shoreland Zone** , No person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the Shoreland Zone; or expand change, or replace an existing use or structure; or renew a discontinued nonconforming use-

A permit is not required in the Shoreland District for the replacement of an existing road culverts as long as:

- (1) The replacement culvert is not more than 25% longer than the culvert being replaced;
- (2) The replacement culvert is not longer than 75 feet; and
- (3) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

**4. Automobile Graveyard Automobile Recycle Business or Junk Yard.**

A development review and a permit pursuant to Article 7 and 8 is required from the Planning Board to operate, or maintain an automobile graveyard, automobile recycling business or junkyard. The permit is valid for 5 years

A permit may not be granted for an automobile graveyard or automobile recycling business that is not in compliance with all applicable provisions of the automobile dealer

or recycler licensing provisions of Title 29-A, chapter 9.. A limited-term permit may be granted for 90 days, within which time the state license

5. **The filling, grading, lagooning, dredging or earth moving activity unless** as provided in Article 5, the CEO issues a determination in writing , that a permit is not required.
6. **Subdivision as Defined in Article 3 of this Ordinance**
7. **The change of the use of the parcel, building, or structures** from one category of use to another category of use
8. **The expansion, in any five-year period**, of any commercial industrial public, semipublic, or institutional structure or building in excess of 25% of its gross floor area or one thousand (1,000) square feet of gross floor area<sup>1</sup> whichever is less.
9. **The expansion of any multifamily dwelling** which increases the number of dwelling units on the parcel.
10. **The creation** of two thousand five hundred (**2,500 square feet**) **or more of impervious surface** or the expansion, in any five-year period, of any existing use which increases the-amount of impervious surface by more than 25% or two thousand five hundred (2,500) square feet, whichever is less, within five hundred (500) feet of a water body or within the watershed of Pleasant Pond.
11. **The establishment or expansion of a campground.**
12. **The establishment or expansion of a mobile home- park.**
13. The **establishment or expansion of extraction industries** and activities including gravel pits where topsoil, loam, sand, gravel, rock, peat, and similar materials may be removed, excavated, screened, crushed, graded, processed, or stored unless exempted in Article 5.
14. **The installation of electronic, telephonic or similar transmission facilities** outside of the rights-of-way of public streets and roads and private ways including transmission lines and corridors which do not provide service directly to a consumer, switchyards, substations, transformer yards and accessory structures.( See Article 10 of this Ordinance)
15. The **construction or installation of inter-municipal**, intrastate or interstate **pipeline** facilities\_including pipeline corridors and rights-of-way located outside of the

right-of-way of public streets, pumping stations and accessory structures.

16. The **creation of Residential uses within existing buildings** within the Main Street Commercial District

**Exempt Activities**

The following activities shall not require the owner to obtain development review approval from the Planning Board provided that the use is a permitted use in the district in which it is located. (See land Use Tables in Article 4) Certain of these activities will, however, require the owner to obtain a building permit from the Code Enforcement Officer and may require other local or state approvals.

1. The construction, alteration, or enlargement of a single-family or two-family dwelling and accessory structures thereto which is not located in a Resource Protection or Shore Land District.
2. The conversion of a single-family dwelling to a two-family dwelling or two-family to a single-family dwelling which is not located in a Resource Protection or Shore Land District.
3. The establishment of home occupations meeting the performance standards of this Ordinance which are not located in a Resource Protection or Shore Land District.
4. The execution of forest management activities in accordance with the performance standards of this Ordinance which are not located in a Resource Protection District.
5. The conduct of commercial agricultural activities including the erection, alteration, and expansion of agricultural buildings which are not located in a Resource Protection District.
6. Filling, excavation and other earth materials activities involving:
  - a. The removal or filling of less than ten (10) cubic yards of material from or onto a lot or any portion of a lot located in the Resource Protection or Shore Land District in- any one (1) year.
  - b. The removal or filling of less than one hundred (100) cubic yards of material from or onto a lot located in the Agricultural District, village District, Residential District or Commercial Industrial District in any one (1) year.
  - c. The removal or transfer of material incidental to construction, alteration, or repair of a building, in the grading and landscaping incidental thereto, or in the repair, maintenance, or installation of an approved subsurface sewage disposal system, provided that the required approvals and permits have been obtained and performance standards met.
  - d. The removal or transfer of material within the right-of-way of a public street or private road incidental to the construction, alteration, or repair of a public or private way or essential service, provided that any deposition of material outside of the right-of-way complies with this Ordinance.

- e. The removal, filling or transfer of material incidental to agricultural, timber harvesting, and forest management activities.

**B. WAIVERS**

The Planning Board may modify or waive a component of the Site Inventory and Analysis or Application submission requirements (as listed in Section A and B of Article 8 of this Ordinance.) , when it determines that because of the size of the project or circumstances of the site, such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town.

All requests for waivers must be made in writing and submitted to the Planning Board at a meeting of the Board. Requests for waivers from the submission requirements for minor projects or for the site inventory and analysis for major projects must be made at the pre-application conference. Requests relating to major development applications must be made at the site inventory and analysis stage.

**C. PREAPPLICATION**

Prior to submitting a formal application, the applicant shall communicate directly either by telephone or in person with the CEO about the project and inform him or her to receive guidance as to whether the Planning Board approval is required and assistance in preparing a complete application for Development Revenue. The burden of preparing an application for the Development Revenue shall remain fully with the applicant. Schedule a pre-application meeting with the Planning Board, which shall be informal in nature and shall not cause the plan to be a pending application. In a case where the CEO is not available please contact the Town Office who can then assist applicant in contacting the Planning Board.

1. Purpose

The purposes of the preapplication conference are to:

- a. allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- b. allow the applicant to understand the development review process and required submissions,
- c. identify issues that need to be addressed in future submissions, and
- d. classify the project as a minor or major development.

The applicant's oral presentation and written materials about the scope, location and nature of the project must provide adequate information to allow the Board to classify the project as a minor or major development.

2. Classification of Project

The Board shall classify the project as a major or minor development. During the pre-application conference. Minor developments are smaller scale, less complex projects for which a less complex review process is adequate to protect the Town's interest. Major developments are larger, more complex projects for which a more detailed review process and additional information are necessary.

- a. Minor developments: the construction or addition of less than five thousand (5,000) square feet of gross nonresidential floor area; the creation of less than five (5) dwelling units or lots in a five-year period, or the conversion of existing buildings or structures from one use to another without enlargement of the gross floor area; extractive industries involving less than five hundred (500) cubic yards; and the installation of only impervious surfaces, such as parking lots over 2,500 square feet in size.
- b. Major developments: the construction or addition of five thousand (5,000) or more square feet of gross nonresidential floor area, the creation of five (5) or more dwelling units or lots in a five-year period; the establishment or expansion of a campground or mobile home park; extractive industries involving more than five hundred (500) cubic yards, or other projects requiring review which are not classified as a minor development.

#### **D. ADMINISTRATIVE PROCEDURES**

1. Minor Developments

Minor developments shall go through a simplified review process. Applicants shall not be required to submit a site inventory and analysis and may proceed directly to preparing and submitting a formal development review application meeting the requirements of Development Review Application, Article 8, Section B of this Ordinance. This material shall be submitted to the Chairman of the Planning Board, c/o the Town Hall.

2. Major Developments

Applicants for major developments shall first submit a Site inventory and Analysis in accordance with Article 8, Section A of this ordinance for Planning Board review. The Board shall review the Site Inventory and Analysis and if it finds that the Site Inventory and Analysis is complete, shall authorize the submission of the formal development review application pursuant to Article 8, Section A, The site inventory and analysis shall be submitted to the Chairman of the Planning Board, c/o the Town Hall.

3. Review of Site Inventory and Analysis (Major Developments Only)

Within thirty (30) days of the receipt of a site inventory and analysis the Planning Board shall review the material and determine whether or not the submission is complete. If the submission is determined to be incomplete, the Board shall notify the applicant in writing the additional material required to make the submission complete, and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. When the submission is determined to be complete, the Board shall notify the applicant in writing of this finding and place the item on the agenda for informal review by the Board.

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Board. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal development review application.

4. Review of Development Review Application

- a. Receipt. Upon receipt of a formal development review application, the Planning Board shall inform applicant of such receipt.
- b. Review for Completeness. Within thirty (30) days of the receipt of a formal development 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 the additional materials required to make the application complete.
- c. Complete application. When the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, and may place the item on the agenda for public hearing with substantive review to begin within thirty (30) days of this finding.
- d. Hearing Notice. The Planning Board shall give written notice of any public hearing by mail to all property owners within five hundred (500) feet of the parcel on which the proposed development is located. Including the clerk and State of Maine if they are an owner of record. The notice shall specify the location of the proposed development and provide a general description of the project, and shall give the date, time and place of the public hearing. Notice of the hearing shall be mailed to the Selectmen, Town Manager, Fire Chief, Police Chief, Road Commissioner, Building Inspector, Plumbing Inspector, Superintendent of Schools, Chairman of the Appeals Board, Conservation Commission and Recreation Committee, Superintendent of the Utilities District, The Kennebec Journal or The Times Record, in

general circulation in Richmond. The owners of the property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of the application or public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.

- e. The Board may hold an on-site inspection of the site. Before or after the Public Hearing if an application is pending during a period when there is snow cover, the Board will request that the applicant agree to extend the review period to allow an on-site inspection. The inability of the Board to hold a site inspection due to snow cover shall be sufficient grounds for denial of an application.

5. Public Hearing on Development Review Applications

- a. The chairman of the Planning Board or his/her replacement shall chair the public hearing. Persons attending the Public Hearing and the applicants should address all comments, information, and questions or rebuttals answers through the Chairman of the Public Hearing.
- b. The purpose of the public hearing is to allow the applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application. Testimony presented at the hearing should be related to factual information about the application and related submissions and the project's compliance with the review standards of Section G, the performance standards of Article 5, and other regulations and requirements of this Ordinance or other Town ordinances.
- c. The chairman shall provide the applicant or their representative with an opportunity to make any statement or presentations at the beginning of the hearing. The chairman shall then allow the members of the Planning Board to ask questions of the applicant and for the applicant to answer those questions. Following Board questions, the chairman shall open the public hearing to the public for statements, information submissions, or questions about the project. At the close of public comment, the chairman shall afford the applicant an opportunity to answer any questions raised by the public, rebut any statements or information submitted, and cross-examines anyone offering testimony on the application. The chairman may allow the applicant this opportunity after each member of the public testifies if that is deemed to be desirable. At the conclusion of the applicant's response, the hearing shall be closed and no additional information added to the record.

6. Final Action

The Planning Board shall within thirty (30) days of the public hearing act to deny, to approve, or to approve the application with such conditions as are deemed advisable to assure compliance with this Ordinance.

In issuing its decision, the Planning Board shall make written findings of fact.

The Board shall notify the applicant of the action of the Board including the findings of fact and any conditions of approval and copy of such findings shall be maintained as part of the application file.

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

Upon approval vote by the Planning Board, and notation to that effect upon the Plan, the application shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board. Such found action shall be considered a final judgment by the Planning Board and may be reconsidered only upon a majority vote of the Board or upon the request of the applicant. Any subdivision Plan shall then be filed with the Sagadahoc County Registry of Deeds by the applicant and in the form of a Mylar copy.

The Planning Board may permit the plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the plan.

Any approval secured under the provisions of this section, by vote of the Planning Board, shall expire unless the work, so authorized, is commenced within one year of the date of approval, and substantially completed within two years, unless other provisions are made, as part of the approval of the project. This provision shall not apply to subdivisions.

## **7. Fees**

### **a. Site Inventory and Analysis Fee (Major Developments Only)**

Prior to submitting a site inventory and analysis if required for a major development project, the applicant shall pay a processing fee to the Town Office, and evidence of payment of the fee shall be included with submission.

### **b. Application Fee (For All Development Review Projects)**

An application fee shall accompany an application for development review. Evidence of payment of the fee shall be included with the application.

### **c. Professional Review Fee (Major Developments only)**



In addition to the application fee, the applicant for development review shall also pay a fee to defray the Town's legal and technical costs of application review. This fee shall be paid to the Town Office and shall be deposited in the Planning Board Development Review Trust Account, which shall be separate from other accounts.

The Planning Board may reduce the amount of the professional review fee if it determines that the scale or nature of the project will not require extensive outside review.

The professional review fees may be used by the Planning Board for expenses, which relate directly to the review of the application. Such services may include, but need not be limited to, clerical costs, consulting engineering fees, fees relating to on-site inspection or evidence gathering activities, architectural fees, attorney fees, recording fees, and appraisal fees.

The Town shall provide the applicant, upon written request, with a quarterly accounting of his or her account and shall refund all of the remaining moneys, including accrued interest, no later than 90 days after final action on the application. Such refund shall be accompanied by a final accounting of expenditures from the fund.

d. Establishment of Fees

The Board of Selectmen shall, from time to time after consultation with the Planning Board, establish the foregoing fees.

(END ARTICLE VII)