

**TOWN OF STONINGTON
COMMERCIAL CONSTRUCTION SITE PLAN REVIEW ORDINANCE**

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SECTION I: PURPOSE

Substantial commercial development or major commercial changes in the uses of land or buildings can cause a substantial impact upon the cost and efficiency of municipal services and upon the environment of the town. Such development can impact neighbors' well capacity or water quality; septic leach fields; and the quality of life in regards to noise and/or odor. On a greater scale it can affect sewers, waterlines and other public utilities; recreational facilities; solid waste disposal; fire and police protection, open spaces, road systems and circulation, and traffic congestion. The placement of buildings and structures can affect property values, 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 ensure that such impacts are addressed. This ordinance addresses any commercial development, providing guidelines for commercial, retail, industrial, and institutional building construction. It also addresses multiple family dwellings consisting of three or more dwelling units with common attached walls.

SECTION II: AUTHORITY AND ADMINISTRATION

- A. This ordinance is adopted pursuant to Home Rule Powers as provided for in the Maine Constitution.
- B. The Planning Board and the Code Enforcement Officer of the Town shall administer this ordinance.
- C. No activity or use requiring Site Plan Review shall commence until the property owner has received Site Plan Approval from the CEO or Planning Board as appropriate, and has complied with any other applicable provisions of this ordinance. No plumbing or other permits or certificate of occupancy shall be issued by the municipal officers or Code Enforcement Officer for any use or development within the scope of this ordinance until the Site Plan Development Application has been reviewed and approved. The Planning Board may modify or waive any of the submission requirements 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 modifications or waiver will not adversely affect the abutting landowners or the general health, safety, or welfare of the Town. Permits can be transferred with the approval of the Planning Board.

SECTION III: APPLICABILITY

- A. This ordinance **does not apply** to single family dwellings or the construction, alteration, or enlargement of a single family or two-family dwelling. This ordinance **does not apply**

to home based occupations or home based fishing, agricultural or forestry activities. This ordinance **does not apply** to uses existing at the adoption of the ordinance.

- B. This ordinance shall apply to all development proposals for establishment, alteration, or change of use of commercial, retail, industrial, institutional buildings and structures and multiple family dwellings consisting of three or more attached dwelling units and their accessory uses and structures. This ordinance does not apply to home based occupations, agricultural or forestry activities. A person who has right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:
1. The construction or placement of any new building or structure for a nonresidential use, or the expansion or conversion of an existing building for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of 5,000 square feet or more.
 2. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in this ordinance.
 3. The construction, conversion or expansion of a residential building containing 3 or more dwelling units. Pursuant to Maine law, such a project is also subject to subdivision review.
 4. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 2,500 square feet within any 3 year period.

SECTION IV: SITE PLAN CONTENT AND APPLICATION PROCEDURES

- A. The Board of Selectmen shall adopt a Site Plan Development Application which shall require as a minimum:
1. Adequate maps, including surveys where appropriate
 2. Pertinent information on the applicant;
 3. Information on the project property before any new development
 4. Information on all proposed construction
 5. Statement of financial capability
 6. Evaluation of off-site public facilities
 7. Adequacy of fire safety provisions, water and sewage disposal, roads and pedestrian access

8. Estimate of construction cost; start date; estimated completion date
 9. Application fees
- B. The CEO shall initially review an application. If the CEO determines the application is incomplete, the applicant shall provide such additional information as requested before the review process can continue.
- C. Abutting property owners shall be notified by mail by the Town of all pending applications for Site Plan Review.

SECTION V. REVIEW PROCEDURES

- A. **Initial Review:** The Planning Board shall determine whether the application is complete, taking into account all factors, including the report of the CEO; any comments or requests for waivers from the applicant; or any report from a professional consultant previously retained by the Planning Board in regards to the proposed development. If the application is determined to be complete, the Planning Board shall set the matter for a hearing to take place within 30 days. If the application is incomplete, the applicant shall be notified in writing of the additional information required.
- B. The Planning Board may require that an independent consultant review the application. The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost.
- C. Upon receipt of additional requested information, the Planning Board shall conduct an initial review again and schedule a public hearing if it finds that the application is complete.
- D. Public hearings by the Planning Board shall be conducted according to the procedures outlined in M.S.R.A. 30A Section 291. Notice of a hearing shall be published at least 10 days prior to the hearing date. Parties to a hearing may be represented by an agent or attorney. Any hearing may be continued or recessed to another time for good cause, or upon recorded agreement of the Planning Board and the applicant.
- E. Within 30 days of the public hearing the Planning Board shall either approve or 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.
- F. In approving or disapproving an application, the CEO or Planning Board shall make written conclusions and factual findings as to whether the applicant has submitted sufficient evidence showing that each of the Performance Standards listed below has been fully satisfied, or a waiver granted.

SECTION VI: PERFORMANCE STANDARDS

The following standards are to be used by the Planning Board in judging applications for site plan review and shall serve as minimum requirements for approval of the site plan. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary for the Planning Board to review the application.

- A. **Advertising Features:** The size, location, design, lighting and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties.
- B. **Emergency vehicle Access:** Convenient and safe emergency vehicle access to all buildings and structures at all times shall be provided for and maintained.
- C. **Existing Utilities, Septic and Wells:** The development shall not impose an unreasonable burden on sewers, sanitary and storm drains, water lines or other public utilities; nor on existing septic/leach fields or wells.
- D. **Exterior Lighting:** All exterior lighting shall be designed to minimize impact on neighboring properties.
- E. **Financial/Technical Capacity;** The developer has adequate financial and technical capacity to meet the above state standards.
- F. **Lot Standards:** Lot configuration and area should be designed to provide for adequate off-road parking service facilities. The maximum lot coverage for buildings is 50 percent. The maximum height of buildings is 35 feet. The minimum setbacks are:
 - 1. Front yard: 25 feet from edge of right-of-way.
 - 2. Side yard: 20 feet from property line.
 - 3. Rear yard: 20 feet from property line.
 - 4. Shoreland: As per Shoreland Zoning Ordinance.
- G. **Municipal Services:** The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
- H. **Noise:** The project shall not result in unreasonable noise beyond the lot lines.
- I. **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. The proposed site shall include sufficient on-site parking spaces for the projected need.

- J. **Pollution:** Will not result in undue water or air pollution. In making this determination the Planning Board shall at least consider:
1. the elevation of land above sea level and its relation to the flood plain;
 2. the nature of the soils and subsoils and their ability to adequately support water disposal;
 3. the slope of the land and its effects on effluents.
 4. The proper handling and disposal of any hazardous materials
- K. **Preserve and Enhance the Landscape:** The landscape shall be preserved in its natural state insofar as practical by minimizing tree removal, disturbance of soil, retaining 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-use.
- L. **Relationship of the Proposed Buildings to the Environment:** Proposed structures shall be related harmoniously to 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 bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways.
- M. **Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, soil erosion, public ways or the public storm drainage system. Whenever possible, on-site absorption of run-off waters shall be utilized to minimize discharges from the site.
- N. **Soil Erosion:** Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- O. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, utility buildings and similar structures shall have sufficient 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.
- P. **Scenic/Natural Beauty:** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

- Q. **Sewage Waste Disposal:** Will provide for adequate sewage waste disposal. If served by the Stonington Sanitary District, will not unduly burden the District's capacity.
- R. **Shoreland Zone:** Whenever situated in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- S. **Vehicular Access:** The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and controls of access points including site distances, turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road system.
- T. **Water:** Has sufficient water available for the reasonable foreseeable needs of the development, and will not cause an unreasonable burden or damage to the local groundwater supply. No project with an estimated daily average consumption in excess of 1,000 gallons shall be served by the Stonington Water Company.

SECTION VII: GENERAL PROVISIONS

- A. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant for required improvements and infrastructures affecting the health, safety and welfare of the Town.
- B. Failure of the permitting authority to act within any of the time requirements set forth herein shall constitute a denial of the application.
- C. All Site Plan Approvals shall expire unless work on the project is substantially commenced within 12 months from the date of issuance. If work is not substantially completed within 24 months from the date of issuance, a new application shall be required.
- D. The granting of Site Plan Approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use.
- E. The CEO shall have reasonable access to the site at all times to review the progress of the work and shall have authority to review all records and documents related to the project. The applicant, by accepting Site Plan Approval, waives any objection to the

CEO having access to the site to review the progress of the work or to review all records and documents related to the project.

- F. Appeal process shall be the same as in the Stonington Shoreland Zoning Ordinance.

SECTION VIII: VIOLATIONS; ENFORCEMENT AND FINES

- A. **Violation and enforcement:** The Selectmen, upon finding that any provision of this ordinance or the conditions of a permit issued under this ordinance are being violated, are authorized to institute legal proceedings to enjoin violations of this ordinance. The Code Enforcement Officer will undertake all other enforcement action, such as inspections, notices and stop work orders.
- B. **Fines:** A person who violates a provision of this ordinance or the conditions of a permit shall be guilty of a civil violation subject to the fines as specified in Title 30-A, M.R.S.A. 4452. Such persons shall also be liable for court costs and reasonable attorney fees incurred by the municipality.

SECTION IX: VALIDITY; 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.

APPENDIX A: DEFINITIONS

A. Construction of Language

In the interpretation and enforcement of this ordinance, all words other than those specifically defined in the ordinance shall have the meaning implied by their context in the ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this ordinance and any map, illustration, or table, the text shall control. The word "lot" includes the words "plot" and "parcel". The word "building" includes the word "structure". The word "used" or "occupied", as

applied to any land or building shall be construed to include the words “intended, arranged, or designed to be used or occupied”.

B. In this ordinance the following terms shall have the following meanings:

ABUTTING PROPERTY: Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a street or right-of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

AGRICULTURE: The cultivation of the soil or raising crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof, but these two terms, when used alone, shall refer specifically to a place where flowers plants, shrubs, and/or trees are grown for sale.

ALTERATION: Structural changes, rearrangement, change of location, or addition to a building, or structure other than repairs and modifications in building equipment involving a 50% increase in floor space on a minor development and any increase in floor space in a major development or bulk of the building or structure at any time or in total since the effective date of this ordinance. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

BUILDING FOOTPRINT: The area covered by a building measured from the exterior surface of the exterior walls at grade level exclusive of cantilevered portions of the building. Where the building is elevated above grade level on posts or similar devices, the building footprint is the area the building would cover if it were located at ground level.

BUILDING: Any 3 dimensional enclosure constructed of any building materials or any space for any use or occupancy

CHANGE IN USE: A change in the type of occupancy of a building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants. The term “change of use” includes the addition of a new use to an existing use.

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

ENLARGEMENT OR EXPANSION OF A STRUCTURE: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

ENLARGEMENT OR EXPANSION OF USE: Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

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

GROUNDWATER: All of the water found beneath the surface of the ground. For purposes of aquifer protection, this term refers to the subsurface water present in aquifers and recharge areas.

HOME BASED OCCUPATION – An occupation or profession which is customarily conducted on or in a residential structure or property and which is clearly incidental to and compatible with the residential use of the property and surrounding residential uses and which employs no more than 2 persons other than family members residing in the home.

HISTORIC OR ARCHAEOLOGICAL RESOURCES: Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan.

LOT AREA: The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

PRINCIPAL STRUCTURE: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

PRINCIPAL USE: A use other than one which is wholly incidental or accessory to another use on the same premises.

SETBACK, FRONT: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such

depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

STRUCTURE: Anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, but not including a tent or vehicle.

SUBSTANTIALLY COMMENCED; SUBSTANTIALLY COMPLETED: Construction shall be considered to be substantially commenced when any work beyond the state of excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a manufactured home on a foundation has begun. Construction shall be considered to be substantially completed when it has been completed to the point where normal functioning, use, or occupancy can occur without concern for the general health, safety, and welfare of the occupant and the general public. At a minimum it shall include the completion of no less than 70 percent of the costs of the proposed improvements within a development and shall include permanent stabilization and/or revegetation of areas of the site that were disturbed during construction.

USE: The purpose for which land or a building is arranged, designed, or intended, or for which either land or a building is or may be occupied or maintained.