

## TOWN OF BLUE HILL

### PROPOSED COMMERCIAL SITE PLAN REVIEW ORDINANCE AMENDMENTS

*The Blue Hill Commercial Site Plan Review Ordinance is proposed to be amended by adding the words shown in underline and removing the words shown in strikethrough, explanations are highlighted and outlined as follows:*

#### Section 1. General Provisions

##### C. Purposes

6. To affirmatively further the purposes of the Federal Fair Housing Act, 42 U.S.C. ch. 45, as amended, and the Maine Human Rights Act to achieve the applicable statewide or regional housing production goal established by the Maine Department of Economic and Community Development.

#### Section 2. Definitions

**Accessory Dwelling Unit (ADU):** A self-contained dwelling unit located within, attached to, or detached from a single-family dwelling that complies with 30-A M.R.S.A. § 4364-B, as amended. As used in this Ordinance, an ADU is an accessory structure or use to a single-family dwelling.

**Affordable Housing Development:** A development of single-family dwellings, duplex dwellings, multi-family dwellings, or any combination thereof, in which a household whose income does not exceed 80% (for rental housing) or 120% (for owned housing) of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. "Housing costs" means (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees. "Area median income" means the midpoint of income distribution in the HUD-designated metropolitan area that includes the Town of Blue Hill, as calculated on an annual basis by the U.S. Department of Housing and Urban Development ("HUD").

**Multi-family Dwelling:** A structure containing three (3) or more dwelling units.

#### Section 3. Site Plan Review Required

##### B. Table of Land Uses

Land Use Activity	Site Plan Review Permit Required?
5. <del>RESERVED</del> <u>Multi-family dwelling or affordable housing development</u>	<u>Yes</u>

## Section 6. Site Plan Review Criteria

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### O. Affordable Housing Development

**Criterion:** An *affordable housing development* shall meet the following minimum standards, in addition to the other requirements of this Ordinance.

#### Minimum Standards:

1. More than half of the total *dwelling units* in the *affordable housing development* must be designated as affordable rental units or affordable homeownership units.
2. Prior to the sale or occupancy of any unit within an *affordable housing development*, the owner of the *affordable housing development* must execute a restrictive covenant, recorded in the Hancock County Registry of Deeds and enforceable by a third party acceptable to the Planning Board, ensuring that, for at least thirty (30) years after completion of construction, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% (for rental housing) or 120% (for owned housing) of the local area median income at the time of initial occupancy. The restrictive covenant must run with the land and encumber the *affordable housing development*, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town of Blue Hill and a third party acceptable to the Planning Board.
3. The developer of an *affordable housing development* must make adequate provision for the long-term maintenance, repair, and improvement of any septic systems and drinking water supplies proposed to serve the units within the *affordable housing development*, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).
4. Nothing in this section exempts an *affordable housing development* from any other requirements of this Ordinance or any other municipal ordinances or regulations, including any subdivision or shoreland zoning requirements.

### OP. Ordinance Conformity

Explanation: The above proposed changes to the Blue Hill Commercial Site Plan Review Ordinance is to amend it to conform with the new state housing law LD 2003.

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## Section 2. Definitions

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**Commercial:** An activity the intent or result of which is to generate revenue from the buying and selling of goods and/or services, including the short-term and long-term ~~exclusive of~~ rental of single-family or duplex dwellings. This definition includes non-profit organizations and activities.

Explanation: The purpose for this change is to include the rental of single-family or duplex dwellings in the review process to be sure the projects are being reviewed to the best extent.

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## Section 4. Application Procedures

#### **E. Requirements for All Applications**

4. Copies
  - b. Applications for Major Developments shall include ~~eight (8)~~ two (2) copies of written materials plus ~~eight (8)~~ two (2) sets of maps or drawings containing the information listed below and a complete electronic copy of the application.

Explanation: The purpose for this change is make the reviewing process easier for the Planning Board members and to create less paper waste.



**BLUE HILL  
COMMERCIAL SITE PLAN REVIEW ORDINANCE**

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## Section 1. General Provisions

### A. Title

This ordinance shall be known as the "Blue Hill Commercial Site Plan Review Ordinance" or, herein, as the "Ordinance."

### B. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2 of the Maine Constitution (*Municipal Home Rule*), the provisions of 30-A M.R.S. § 3001 (*Home Rule*) and the provisions of the Planning and Land Use Regulation Act 30-A M.R.S. Chapter 187 (*Comprehensive Planning and Regulation or "Growth Management Act"*) and 30-A M.R.S. § 4452 (*Enforcement of Land Use Laws and Ordinances*).

### C. Purposes

1. To assure the safety, health, and welfare of the people of the Town of Blue Hill.
2. To promote an economically sound and stable community.
3. To lessen the danger and congestion of traffic on *public roads*.
4. To protect and preserve the natural environment of the Town of Blue Hill.
5. To establish orderly and uniform procedures whereby the Town may review high impact projects to ensure that the other purposes of this Ordinance are met.
- 5.6. To affirmatively further the purpose of the Federal Fair Housing Act, 42 U.S.C. ch 45, as amended, and the Maine Human Rights Act to achieve the applicable statewide or regional housing production goal established by the Maine Department of Economic and Community Development.

### D. Conflict with Other Laws

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance or statute which also applies to the proposed project, the requirement imposing the more restrictive or higher standard shall govern.

### E. Severability

In the event that any section, subsection or provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, that declaration shall not be deemed to affect the validity of any other section, subsection or provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

### F. Effective Date; Date of Applicability

The effective date of this Ordinance or any amendments hereto is the date of its adoption at a Town Meeting.

Notwithstanding 1 M.R.S.A. § 302 or any other law to the contrary, and regardless of the effective date, this Ordinance, as amended at a Town Meeting held on April 8, 2023, shall apply to all proceedings and applications that were or are pending before any *permitting authority* on or any time after February 14, 2023 (the "Date of Applicability") and, to the extent allowed by 30-A



M.R.S.A. § 3007(6), shall nullify the issuance of any final approval of a ***permitting authority*** made on or any time after the Date of Applicability.

## Section 2. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings.

**NOTE:** For convenience only, defined terms are marked in ***bold italics*** where they appear in the text.

**Abutting lot:** A ***lot*** which abuts, is contiguous to, or joins at a border or boundary, including ***lots*** across a ***road***, the ***lot(s)*** subject to the ***Site Plan Review*** requirement and any contiguous lots under common ownership.

**Aggrieved party:** An ***owner*** of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a ***person*** who owns an ***abutting lot*** to that ***lot*** for which a ***Site Plan Review Permit*** or variance has been granted; or any other ***person*** who has suffered particularized injury as a result of the granting or denial of such ***Site Plan Review Permit*** or variance.

**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***.

**Accessory Dwelling Unit (ADU):** A self-contained ***dwelling unit*** located within, attached to, or detached from a ***single-family dwelling*** that complies with 30-A M.R.S.A §4364-B, as amended. As used in this Ordinance, an ADU is an ***accessory structure or use*** to a ***single-family dwelling***.

**Affordable Housing Development:** A development of ***single-family dwellings, duplex dwellings, multi-family dwellings***, or any combination thereof, in which a household whose income does not exceed 80% (for rental housing) or 120% (for owned housing) of the area median income can afford 51% or more of the units in the development without spending more than 30% of the household's monthly income on housing costs. "Housing costs" means (a) for a rental unit, the cost of rent and any utilities (electric, heat, water, sewer, and/or trash) that the household pays separately from the rent; and (b) for an ownership unit, the cost of mortgage principal and interest, real estate taxes (including assessments), private mortgage insurance, homeowner's insurance, condominium fees, and homeowners' association fees. "Area median income" means the midpoint of income distribution in the HUD-designated metropolitan area that includes the Town of Blue Hill, as calculated on an annual basis by the U.S. Department of Housing and Urban Development ("HUD").

**Agricultural activities:** The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamentals and greenhouse products. ***Agricultural activities*** do not include the processing of agricultural products for market or consumption such as slaughterhouses, packing plants or canneries.

**Attic:** That part of a ***structure*** immediately below and wholly or partly within the roof framing.

**Basement:** Any portion of a ***structure*** with a floor to ceiling height of six (6) feet or more and having more than fifty per cent (50%) of its volume below the existing ground level.

**Building:** Any ***structure*** designed to shelter people, animals, or property.

**Campground:** Any premises established for camping, including *recreational vehicle* parks, for which a fee is charged.

**Campsite:** An area in a *campground* designed for use by a single *recreational vehicle*, tent, or shelter.

**CEO (Code Enforcement Officer):** A *person* appointed by the municipal officers to administer and enforce this Ordinance.

**Commercial:** An activity the intent or result of which is to generate revenue from the buying and selling of goods and/or services, ~~including the short-term and long-term exclusive of~~ rental of *single-family* or *duplex dwellings*. This definition includes non-profit organizations and activities.

**Commercial recreation facility:** Any *commercial* enterprise that provides recreational activities including, but not limited to, racquet ball clubs, health clubs, amusement parks and golf courses.

**Commercial use:** The use of lands or *structures*, other than for a "*home occupation*," for *commercial* purposes.

**Duplex dwelling:** A detached or semi-detached *building* consisting of two (2) *dwelling units*.

**Dwelling unit:** A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) *family*, including provisions for living, sleeping, cooking, and eating and, if present, a *home occupation*.

**Expansion (of a structure):** An increase in the *height, floor area* or volume of a *structure*, including increases in all extensions such as, but not limited to, attached decks, garages, porches, and greenhouses.

**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 *expansions* of use.

**Family:** One or more *persons* occupying a premises and living as a single housekeeping unit.

**Floor area:** The sum of the horizontal surface areas of a *structure* enclosed by exterior walls (including the gross habitable portions of any attic or basement), plus the horizontal surface area of any unenclosed portions of a *structure* such as porches and decks.

**Footprint:** The area enclosed by the outside perimeter of a *structure* at ground level.

**Forest management activities:** Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated silvicultural activities.

**Height (of a structure):** The vertical distance between the mean original (prior to construction) grade at the downhill side of the *structure* and the highest point of the *structure*, excluding roof-mounted solar photovoltaic (PV) panels, chimneys, steeples, antennas, and similar appurtenances that have no *floor area*. For ground-mounted solar photovoltaic (PV) panels, the vertical distance between the mean original (prior to construction) grade at the point where a panel is fixed to the ground and the highest point of the panel.

**High intensity soil survey:** A "high intensity soil survey" as defined by the Maine Association of Professional Soil Scientists.

**Home occupation:** An occupation or profession which is customarily conducted on or in a residential **structure** or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) **persons** other than **family** members.

**Impervious surface:** Surfaces which do not absorb water, including, without limitation, all **buildings**, parking areas, driveways, **roads**, sidewalks and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute **impervious surfaces**.

**Loading area:** An off-**street** space or berth on the same **lot** with a **building** or contiguous to a group of **buildings** for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a **street**, alley, or other appropriate means of access.

**Lot:** A parcel of land undivided by any **public road**.

**Lot coverage:** The maximum combined **footprints** of all **structures** on a **lot**, divided by the area of such **lot**, the result expressed as a percentage. In **shoreland areas**, **lot coverage** also includes all un-revegetated areas.

**Lot line:** A line bounding a **lot** that divides one **lot** from another, or from a **public road**.

**Major Development:** A project which has been classified as such under the provisions of Section 4(B) (or reclassified under Section 4(C)) of this Ordinance.

**Minor Development:** All projects not classified as a **Major Development**.

**Multi-family Dwelling:** A structure containing three (3) or more **dwelling units**.

**Non-conforming (building or structure):** A **building** or **structure** which 1) was in **commercial use** as of the date of adoption of Section 6(H)(3) and 2) did not conform to the setback provisions of that section as of such date.

**Owner:** The **person** having the right of legal title to, beneficial interest in, or a contractual right to purchase a **lot**.

**Permitting authority:** The **person (CEO)** or entity (Planning Board) responsible for issuing a particular permit or approval under this Ordinance.

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

**Principal structure:** A **building** other than one that is used for purposes wholly incidental or **accessory** to the **use** of another **building** or use on the same premises. 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**.

**Principal use:** A use other than one that is wholly incidental or **accessory** to another **use** on the same premises.

**Public road:** A *road* designated for public use; typically maintained by a governmental body such as a town, county, state, or the Federal government.

**Recreational vehicle:** A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more *persons*, including, without limitation, a pickup camper, travel trailer, tent trailer, motor home, or converted van or truck.

**Road:** A thoroughfare, way or easement permanently constructed for or created by the repeated passage of vehicles.

**Site Plan Approval:** A decision by the *permitting authority* to approve a project as a result of *Site Plan Review*.

**Site Plan Review:** The process of evaluating an application for a project under this Ordinance.

**Site Plan Review Permit:** A written order granting *Site Plan Approval*.

**Shore frontage:** The horizontal distance, measured in a straight line, between the intersections of the *lot lines* with the shoreline at the normal high water line or the upland edge of a coastal wetland. The terms "normal high water line" and "coastal wetland" shall have the meanings set forth in 38 M.R.S. § 480-B.

**Shoreland area:** All areas to which the Shoreland Zoning Ordinance for the Municipality of Blue Hill, as it may be amended from time to time, is applicable.

**Sign:** Any *structure*, display, logo, device, or representation which is designed or used to advertise or call attention to any thing, *person*, business, activity, or place, and which is visible to the public. A *sign* does not include any flag, pennant or insignia of a nation, state, town, or other political entity. Whenever dimensions of a *sign* are specified they shall include frames. Each visible *sign* face shall constitute a separate *sign*, except that a *sign* with two (2) faces shall be considered one (1) *sign* so long as the distance between the faces does not exceed twelve (12) inches. The area of both faces shall be combined in determining the total area of the *sign*.

**Single-family dwelling:** A detached or semi-detached *building* consisting of one (1) *dwelling unit*.

**Solar energy system:** A complete assembly of solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure that uses solar photovoltaic (PV) technology (including solar panels) to collect, convert, store, and deliver electricity for on-site or remote consumption. A *solar energy system* may be roof-mounted or ground-mounted.

**Solar energy system, accessory:** A *solar energy system*, other than a *solar microgrid*, that is (i) roof-mounted; or (ii) ground-mounted, whose *solar land area* does not exceed 0.5 acres, and whose nameplate capacity is 125 kW (DC) or less.

**Solar farm, local-scale:** A ground-mounted *solar energy system*, other than an *accessory solar energy system*, whose *solar land area* is less than 3.0 acres.

**Solar farm, large-scale:** A ground-mounted *solar energy system*, other than an *accessory solar energy system*, whose *solar land area* is 3.0 acres or more.

**Solar farm, permissible:** Any *solar energy system* that is listed under Section 3(B) (the Table of Land Uses) as an allowed land use activity requiring a site plan review permit.

**Solar land area:** The aggregate area of land occupied by a ground-mounted **solar energy system**, including but not limited to: (i) solar panels and associated mounting hardware and equipment, (ii) all inter-panel space, and (iii) all impervious surfaces. **Solar land area** does not include parking lots, driveways, or roadways used to access the **solar energy system** or any areas adjacent to the **solar energy system** that are vegetated by grasses and must, by virtue of a legal instrument, be kept free of structures, trees, or shrubs in order for the system to capture sunlight.

**Solar microgrid:** A **solar energy system** of any size or nameplate capacity that shall operate independently of the electric grid to generate, store, and deliver electricity primarily for on-site consumption by multiple **principal uses** or **structures** located on one or more parcels of land within a geographically defined area that does not extend beyond the geographic scope of the Town of Blue Hill.

**Street:** A **public road**.

**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, poles, **signs**, sidewalks, driveways, or parking lots. The term includes structures temporarily or permanently located, such as tents, decks, raised walkways, handicapped access ramps, external stairways, and satellite dishes.

**Substantial commencement:** Completion of thirty percent (30%) of a permitted **structure** or use measured as a percentage of estimated total cost.

**Vegetation:** All live trees, shrubs, ground cover, and other plants.

**Yard:** The area of land not occupied by **buildings**.

Blue Hill Commercial Site Plan Review Ordinance  
Section 3. Site Plan Review Required

**Section 3. Site Plan Review Required**

**A. Permit Required**

No **person** shall commence or undertake any land use activity within the Town of Blue Hill without first obtaining a **Site Plan Review Permit** as indicated by the following Table of Land Uses.

**B. Table of Land Uses**

Land Use Activity	Site Plan Review Permit Required?
1. One or two <b>single-family dwellings</b> on a single <b>lot</b> .	No
2. <b>Duplex dwelling</b> on a single <b>lot</b> .	No
3. Conversion of a <b>single-family dwelling</b> on a single <b>lot</b> to a <b>duplex dwelling</b> .	No
4. Any structure or activity that is an <b>accessory structure or use</b> to items 1 through 3, above.	No
5. <del><b>Multi-family dwelling or affordable housing development</b></del> <b>RESERVED</b> .	<u>Yes</u>
6. All <b>agricultural activities</b> .	No
7. <b>Forest management activities</b> .	No
8. The construction of any new <b>structure</b> not otherwise exempted by this table.	Yes
9. Any new <b>commercial use</b> of land not otherwise exempted by this table.	Yes
10. Any expansion of an existing <b>commercial use</b> that results in: A. <b>lot coverage</b> greater than fifty percent (50%); B. a <b>structure</b> with a <b>footprint</b> greater than two thousand (2,000) sq. ft. in area; or C. total <b>impervious surfaces</b> on the lot in excess of four thousand (4,000) sq. ft. or seventy five percent (75%) of <b>lot area</b> .	Yes
11. Any use that will result in substantial wastewater discharge as described in Section 4(B)(1) of this Ordinance.	Yes
12. The interior expansion of any <b>commercial use structure</b> that increases the floor area used for <b>commercial</b> purposes by fifty percent (50%) or more.	Yes
13. Any use that will result in substantial groundwater extraction as described in Section 4(B)(2) of this Ordinance.	Yes
14. Any <b>accessory solar energy system</b> .	No
15. Any <b>local-scale solar farm</b> .	Yes
16. Any <b>solar microgrid</b> .	Yes

**C. Prohibited Uses**

The following land use activities within the Town of Blue Hill, and any ***structures*** associated with such activities, are prohibited:

1. Any ***large-scale solar farm***.



**Section 4. Application Procedures**

**A. Classification of Projects**

Each project subject to *Site Plan Review* shall be classified by the **CEO** as a **Major Development** or a **Minor Development**.

**B. Major Developments**

Any project involving any of the following shall be classified by the **CEO** as a **Major Development**. Any project initially classified as a **Major Development** may be reclassified as a **Minor Development** upon a finding by the Planning Board that the project does not meet any of the requirements for classification as a **Major Development**. After such reclassification all further review shall be conducted by the **CEO**.

**1. Projects with substantial wastewater discharge**

Projects that are not served by a public sewer, which will generate a daily average discharge of more than two thousand (2,000) gallons of wastewater, and which will meet any one of the following three conditions:

- a. The project is located within three hundred (300) feet of a sand and gravel aquifer, as shown on the relevant map of Significant Sand and Gravel Aquifers published by Maine Geological Survey;
- b. Any part of the project is located in an area to which the Shoreland Zoning Ordinance for the Municipality of Blue Hill is applicable; or
- c. Any part of the project is located in the watershed of the Blue Hill Water District.

**2. Projects with substantial groundwater extraction**

Projects extracting one thousand (1,000) gallons or more of groundwater per day.

**3. Projects involving hazardous materials, oil, or radioactive substances.**

Hazardous activities involving the consumption, generation, or handling of:

- a. Hazardous wastes as defined in 38 M.R.S. § 1303-C;
- b. Hazardous matter as defined in 38 M.R.S. § 1317;
- c. Oil, as defined in 38 M.R.S. § 542; and
- d. Low-level radioactive wastes, as defined in 38 M.R.S. § 1451.

**4. Building footprint in excess of ten thousand (10,000) sq. ft.**

Any **building** or **buildings** on a single lot constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a footprint in excess of ten thousand (10,000) square feet.

**5. Impervious surfaces in excess of sixty thousand (60,000) sq. ft.**

Any project in which total **impervious surface(s)** will occupy a ground area in excess of sixty thousand (60,000) square feet.

**6. Conversion or *Expansion* of a *Major Development***

Any project which is a conversion or ***expansion*** of an existing project meeting the description of a ***Major Development***.

**7. *CEO* Determination of Potential Significant Impact**

Any project which the ***CEO*** determines a) may have significant impact to the physical, social, economic, or the environmental welfare of the Town or b) has characteristics that make it reasonable and necessary to conduct a professional review (as described in Section 5(E)) prior to considering the application for ***Site Plan Approval***.

**8. *Permissible Solar Farms***

Any project that meets the definition of a ***permissible solar farm***.

**C. Minor Developments**

A project not classified by the ***CEO*** as a ***Major Development*** shall be considered a ***Minor Development*** under this Ordinance. Any project initially classified as a ***Minor Development*** may be reclassified as a ***Major Development*** upon a finding by the ***CEO*** that the project meets the requirements for classification as a ***Major Development***. After reclassification, all further review shall be conducted by the Planning Board.

**D. Submission Requirements**

**1. *Major and Minor Developments***

All projects requiring ***Site Plan Review*** shall submit the information specified in Section 4(E). ***Major Developments*** meeting the criteria in Section 4(B)(1) (*Projects with substantial wastewater discharge*) and Section 4(B)(2) (*Projects with substantial groundwater extraction*) shall submit additional information as provided in Section 4(F).

**2. *Waiver***

The ***permitting authority*** may waive any of the submission requirements upon the written request of an applicant for good cause shown. The ***permitting authority*** must state the facts constituting good cause in writing. No waiver may be granted if it will unduly restrict the review process. The ***permitting authority*** may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the ***permitting authority's*** finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the ***permitting authority*** may, at any later point in the review process, rescind such waiver if it appears that any submission requirement previously waived is necessary for an adequate review. A request for submission previously waived shall not affect the pending status of an application.

**3. *Procedures***

Applications for ***Site Plan Review*** shall be submitted on forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the ***CEO*** who shall, for ***Major Developments***, forward these materials to the Planning Board.

**4. Optional pre-application review**

Prospective applicants may submit a sketch plan of the site and proposed project to the **CEO** for informal review and comment. There is no fee for pre-application review; any review or comment by the **CEO** is not binding upon either the **CEO** or Planning Board.

**E. Requirements for All Applications**

The following materials and items are required of all applications.

**1. Application form**

A fully executed and signed copy of the application form.

**2. Review and advertising fees**

Fees associated with applications for permits under this **Ordinance** shall be as indicated on the Town fee schedule, as determined by the Select Board, in effect at the time the application is deemed complete by the **permitting authority**.

**3. Technical review fee**

Technical review fees, if applicable, shall be as indicated on the Town fee schedule, as determined by the Select Board, in effect at the time the application is deemed complete by the **permitting authority**.

Upon request of the Planning Board and the approval of the Municipal Officers of the Town, all or any portion of the technical review fee may be expended for technical services by independent consultants, to be conducted as described in Section 5(E). Any moneys remaining at the end of the review shall be returned to the applicant.

**4. Copies**

- a. Applications for **Minor Developments** shall include two (2) copies of written materials plus two (2) sets of maps or drawings containing the information listed below.
- b. Applications for **Major Developments** shall include ~~eight (8)~~ two (2) copies of written materials plus ~~eight (8)~~ two (2) sets of maps or drawings containing the information listed below and a complete electronic copy of the application.
- c. All maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

**5. General information**

The following general information is required:

- a. Name and address of **owner** of record and the facility operator's name and address if different;
- b. Applicant's name and address if different;
- c. The name of the proposed project;
- d. Table of contents organizing the following required materials;

- e. The applicant shall provide a list of the names and addresses of all current abutting landowners of the proposed project with the application. The applicant shall be responsible for sending a notice (provided by the Town) of the proposed project and application via certified mail, return receipt requested, to all abutting landowners and shall provide the CEO with copies of the completed return receipts and an affidavit stating the terms of this condition have been met.
- f. Sketch map showing general location of the site within the Town;
- g. Location map showing the relationship of the proposed project to adjacent properties and to the general surrounding area within three thousand (3,000) feet of any property line of the site, and the location of any identified sand and gravel aquifers within three hundred (300) feet of the project. The scale shall not be smaller than 1" = 400'; reduced tax maps showing **owner's** names and other required information may be acceptable;
- h. The tax map(s) and lot number(s) of the **lot** where the project is located and of **abutting lots**;
- i. A copy of the current deed to the **lot**, option to purchase the **lot** or other documentation to demonstrate right, title, or interest in the **lot** on the part of the applicant; and
- j. The name(s), registration number(s), and seal(s) of the land surveyor, architect, engineer, and/or similar professionals assisting with the preparation of the plan.

**6. Site information**

The following information regarding the proposed project and existing conditions is required. This information must accompany, or be submitted on, a map using the following scale and showing the date of the map, magnetic north, the scale, and the identity of the draftsman:

Acres	Scale
1 to 10	1"=10' to 1"=50'
10+ to 50	1"=50' to 1"=100'
50+ ( <b>lots</b> <=4 acres)	1"=100'
50+ ( <b>lots</b> >4 acres)	1"=200'

- a. Zoning classification(s) of the **lot** and the location of zoning district boundaries if the **lot** is wholly or partially located in a **shoreland area**.
- b. The bearings and distance of all **lot lines** of the **lot** on which the project is located and the source of this information.
- c. Location and size of all existing and proposed wells, sewer and water mains, culverts, drains, above or below ground utilities and wastewater disposal systems on the **lot** on which the project is located, and of any of these items that currently serves or will serve the project from **abutting lots** or **public roads**.
- d. Location, names and widths of all existing and proposed **roads** and rights-of-way adjacent to the proposed project.

**Section 4. Application Procedures**

- e. The location, dimensions and ground floor elevations of all existing and proposed **buildings** on the **lot**.
- f. The location and dimensions of all existing and proposed driveways, **roads**, parking and **loading areas** and walkways on the **lot**.
- g. The existing and proposed topography of the site at an appropriate contour interval (not greater than 5') depending on the nature of the use and character of the **lot**.
- h. Major natural features on the site and including, within two hundred fifty (250) feet of the **lot lines**, wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats including bird nesting, staging and feeding areas and deer yards (as identified in the Town's 1999 Comprehensive Plan), archaeological resources or other important natural features.
- i. The direction and amount of pre-development and proposed surface water drainage flow across and from the site, based upon 24-hour, 2-, 10- and 25-year storms. Where proposed flows exceed pre-development flows by ten percent (10%) or more, the applicant shall submit a storm water management plan, showing the steps taken to minimize the impact of storm water runoff. The storm water management plan shall be based upon 24-hour, 2-, 10- and 25-year storms.
- j. The location and type of all existing and proposed exterior **signs**.
- k. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the **lot**. Such covenants or deed restrictions shall be referenced on the plan.
- l. The location of all existing and proposed **building** setbacks, **yards** and buffers required by this Ordinance.
- m. Elevation view of the **building** and **signs**, showing **heights** and materials.
- n. Landscaping plan showing the **building(s)**, existing and proposed **vegetation**, walkways and exterior lighting. Drawings to be at the scale designated in Section 4(E)(6).
- o. For any project that will dispose of wastewater through any subsurface wastewater system, a completed Maine Department of Health and Human Services (Maine DHHS) Health Engineering site evaluation and subsurface wastewater disposal system application showing adequate soils, and adequate system design and capacity. For any project that will dispose of wastewater through the municipal sewer system, evidence that all criteria of the Sewer Use Ordinance for Town of Blue Hill, Maine, as it may be amended from time to time, can be met.
- p. A schedule of construction, including anticipated beginning and completion dates, and the estimated total cost of the project.
- q. The **permitting authority** may, at its discretion, require the applicant to provide a visual impact assessment which may include photo simulations of the proposed facility taken from perspectives determined by the **permitting authority**, or its designee.
- r. Projects involving the storing, generating, or handling of hazardous wastes or materials, oil, or radioactive wastes shall specify the exact amount and nature of all such

substances that will be on the site, and the specific method of handling and containing those substances that will be used.

- s. An erosion control and sedimentation control plan setting forth the measures to be taken to comply with Section 6(C)(1).

**7. Waivers sought by applicant**

A list of the submission requirements for which the applicant seeks a waiver under Section 4(D)(2), and a written explanation of the reasons that the waiver is sought.

**F. Additional Reports for Specific Project Types**

1. Projects with substantial wastewater discharge (Section 4(B)(1)) must submit a high intensity soil survey and a hydrogeologic assessment, which shall include, at a minimum, the following information:
  - a. A map showing basic soil types on the *lot*.
  - b. The depth of the water table at representative points throughout the *lot*.
  - c. Drainage conditions throughout the *lot*.
  - d. Data regarding the existing ground water quality, either from test wells on the *lot* or from existing wells on the *lot* or on *abutting lots*.
  - e. An analysis and evaluation of the impact of the project on ground water resources, including a projection of nitrate-nitrogen concentrations associated with the project. Projects within the watershed of a lake or pond shall include phosphate impact calculations.
  - f. The location of any existing or proposed subsurface wastewater disposal systems and wells on the *lot* and within two hundred (200) feet of the *lot lines*.
  - g. Projections of post-development water quality at any wells within the *lot* or within five hundred (500) feet from the point of contamination, whichever is the shorter distance. These projections shall be based upon a drought condition assumption of sixty per cent (60%) of annual average recharge from precipitation.
  - h. The signature and seal of the Certified Geologist who prepared the assessment.

The Planning Board may require additional information where necessary to evaluate the project's compliance with this Ordinance.

2. Projects with substantial groundwater extraction (Section 4(B)(2)) shall submit a groundwater extraction impact assessment which shall include, at a minimum, the following information:
  - a. A statement from the applicant specifying the quantity of ground water to be extracted expressed as the annual total, the maximum monthly rate by calendar month, and the maximum daily rate. These rates shall be maximum rates, which rates shall not be exceeded without further *Site Plan Approval* by the Planning Board.

**Section 4. Application Procedures**

- b. For projects coming under the jurisdiction of the Maine DHHS, a letter from that agency containing its review comments.
  - c. A report prepared by a Certified Geologist showing:
    - i. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which the water is to be extracted. The map shall include sufficient detail to support a calculation of sustained yield during a ten (10) year drought, as well as an estimate of any potential interaction between or among this and adjacent aquifers.
    - ii. Calculations based upon the investigation showing the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by calendar month) and daily extraction rates, the cone of depression that may develop about the project and impacts upon the water table in the tributary aquifer and other private or public wells within one thousand (1,000) feet of the proposed extraction facilities.
3. Proposals for a ***permissible solar farm*** shall submit the following additional materials:
- a. Evidence that the owner and operator of the proposal has adequate technical and financial capacity to adequately construct, operate, and decommission the permissible solar farm, including a statement or other documentation from a lending institution that the owner has secured financing to cover the cost of construction.
  - b. A statement prepared by a licensed professional engineer certifying that the permissible solar farm design is safe in terms of strength, stability, security, and grounding.
  - c. Plans prepared by a professional engineer or surveyor showing the location of all solar energy system components, existing and proposed structures, existing and proposed impervious surfaces, areas proposed to be cleared of vegetation, and their physical dimensions, including a calculation of the solar land area.
  - d. An operations and maintenance plan for the permissible solar farm, which must include the manufacturer-identified useful life of the facility and documentation of the entity that will be legally responsible for operating, maintaining, and repairing the facility for the term of its useful life.
  - e. If applicable, any Decommissioning Plan (and associated Approval Letter) required by Maine Department of Environmental Protection (MDEP) for the removal of the permissible solar farm and stabilization of the site. The approval authority may require, as a condition of approval, a decommissioning bond naming the Town of Blue Hill as the beneficiary, in addition to any bond issued to MDEP.

**Section 5. Site Plan Review Process**

**A. Purpose**

The purpose of **Site Plan Review** is to promote the public health, safety, and general welfare by requiring **CEO** or Planning Board review of plans for certain uses or **structures** which have a significant potential impact on the neighborhood or the environment and which, when properly designed with respect to their surroundings, can become uses or **structures** that are compatible with the neighborhood and environment.

**B. Prohibition**

No activity or use requiring a **Site Plan Review Permit** shall commence until the applicant has been granted the requisite **Site Plan Approval** from the applicable **permitting authority** and complied with all other applicable provisions of this Ordinance.

**C. Review Procedures**

The procedures for **Site Plan Review** are as follows:

**1. Submission of completed application to the CEO.**

The applicant shall submit the requisite number of copies of the application and supporting information required by this Ordinance, as described in Section 4.

**2. CEO classification and review**

**a. Dated receipt**

The **CEO** shall issue the applicant a dated receipt and will date-stamp the application.

**b. Classification**

The **CEO** shall review the application and classify it as either a **Major** or **Minor Development** in accordance with the provisions of this Ordinance.

**c. Fees submitted**

After classification, the applicant shall provide the **CEO** with the applicable review fees.

**d. Review for completeness**

The **CEO** shall initially review the application and determine whether or not it is complete.

**e. Notice of incomplete application**

If the application is found to be incomplete, the **CEO** shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, the process above shall be repeated.

**3. Complete applications**

Upon finding an application to be complete, the **CEO** shall take the following action with regard to that application.



**a. Minor Developments**

Applications determined to be **Minor Developments** will be reviewed and acted upon by the **CEO** in accordance with the procedures set forth below, and the other requirements of this Ordinance.

**b. Major Developments forwarded to the Planning Board**

The **CEO** shall forward copies of a complete application and supporting documents determined to be **Major Developments** to the members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring not more than forty (40) days after the **CEO** determines the application is complete.

**c. Notice of public hearing to abutting lot owners**

In the event that a public hearing will be held in connection with the project, the **CEO** shall notify **abutting lot owners** of the date, time and place of such hearing by certified mail when the hearing date has been determined.

**4. Planning Board Review**

For **Major Developments**, the Planning Board shall meet to review the project as follows. The Planning Board shall:

**a. CEO report**

Hear any report of the **CEO** and, if the Town has retained the services of a professional adviser, the report of the adviser regarding the proposed project;

**b. Applicant's response**

Hear any comments of the applicant regarding the **CEO** and professional advisor reports;

**c. Request for waivers**

Hear any requests from the applicant for waivers;

**d. Determination of completeness**

Determine whether or not the application is complete;

**e. Notice of incompleteness**

If the application is determined to be incomplete, the Planning Board shall inform the **CEO** of the information required to make the application complete. The **CEO** shall, within ten (10) days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, previous steps in Sections 5(C)(2 through 4) shall be repeated; and

**f. Public hearing determination**

If the application is determined to be complete, the Planning Board shall set the matter for a public hearing conducted by the Planning Board. The public hearing shall take place within forty (40) days of the Planning Board's determination that the application is

complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record, at a public meeting.

**5. Public hearing for *Minor Developments***

At the **CEO's** discretion, a public hearing may also be required for ***Minor Developments***, in which case such public hearing shall be conducted by the **CEO** within forty (40) days of the **CEO's** determination that the application is complete. This deadline may be extended by mutual agreement, in writing, of the **CEO** and the applicant.

**6. Deliberation and decision**

**a. Deliberation**

Within forty (40) days after the public hearing on an application or, if no hearing is held, within forty (40) days of a determination of completeness by the **CEO**, the **permitting authority** shall decide the matter. For ***Major Developments***, the Planning Board shall deliberate the matter at a public meeting. ***Site Plan Approval*** shall be granted if the proposed project complies with all applicable criteria and minimum standards set forth in Section 6. This deadline may be extended by mutual agreement of the **permitting authority** and the applicant in writing, or (in the case of ***Major Developments***) either in writing or orally, on the record, at a public meeting.

**b. Decision**

If the **permitting authority** finds that the proposed project complies with all criteria and minimum standards of this Ordinance, it shall issue an order granting ***Site Plan Approval*** subject to such terms and conditions as the **permitting authority** finds are reasonably necessary to ensure conformity with the criteria and minimum standards of this Ordinance.

If the **permitting authority** finds that the proposed project does not comply with all applicable review criteria and minimum standards, it shall issue an order denying ***Site Plan Approval***.

In either case the **permitting authority** shall, within fifteen (15) days after the completion of its deliberations, issue specific written findings of fact supporting its decision.

The decision shall state any conditions of approval that apply to the project and the reason for the imposition of those conditions. A copy of the decision shall be sent to the applicant at the address provided on the application. Decisions by the **CEO** shall also be sent to any **abutting lot owner** who responded, in writing, to the notice sent by the **CEO**.

**D. Public Hearing Procedures**

***Site Plan Review*** public hearings and notice thereof shall comply with the following procedures:

**1. Published notice**

Notice of the hearing shall be published in a newspaper of general circulation in the Town of Blue Hill at least ten (10) days prior to the hearing date.

**2. Content of notice**

Such notice shall identify the applicant and the *lot* involved, describe the specific nature of the proposal, state the date, time, and place of the hearing.

**3. Rules**

Hearings shall be conducted according to rules adopted by the Planning Board.

**4. Representation**

At any hearing a party may be represented by an agent or attorney, provided, however, that if any party is not present, any *person* acting as that party's agent or attorney shall provide evidence of such authority.

**5. Continuation**

Any hearing may be continued or recessed to another time for good cause, or upon written or recorded agreement of the *permitting authority* conducting the hearing and the applicant.

**E. Professional Review of Major Developments**

**1. Additional studies**

The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to ensure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

**2. Independent technical review**

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information, and may include, but not be limited to:

An Attorney;	A Community Planner;
A Registered Professional Engineer;	A Registered Architect;
A Registered Landscape Architect;	A Registered Geologist;
A Licensed Soil Scientist;	A Registered Land Surveyor;

or

Any other Registered/Licensed Professional or Independent Expert  
Witness deemed fully qualified by the Planning Board.

The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost to the extent it exceeds the amount paid as a technical review fee (Section 4(E)(3)).

**F. Failure to Act**

Failure of the *permitting authority* to act within any of the time requirements set forth herein shall constitute a denial of the application.

**G. Appeals**

Any **aggrieved party** may appeal a decision to grant or deny a permit under this Ordinance, or the imposition of conditions of approval, to the Blue Hill Board of Appeals.

**H. Expiration of Approvals**

Unless specifically authorized by the **permitting authority** at the time **Site Plan Approval** is granted, all **Site Plan Approvals** shall expire unless work on the project is **substantially commenced** within twelve (12) months from the date **Site Plan Approval** is granted. If work is not substantially completed within twenty-four (24) months from the date **Site Plan Approval** is granted, a new application and **Site Plan Approval** shall be required prior to the commencement of any project activity or use.

**I. Other Permits**

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. Such other required permits or approvals may include, but are not limited to, building and plumbing permits, permits required under other ordinances of the Town of Blue Hill, licenses granted pursuant to 38 M.R.S. § 1022, Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, and Maine Department of Transportation approvals. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to **Site Plan Review** may be considered by the Planning Board as evidence as to the project's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance. The written order granting **Site Plan Approval** constitutes the **Site Plan Review Permit** for the project.

**J. Access to Site and Records**

The **CEO** shall have reasonable access to the site at all times to review the progress of the work and shall have the 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.

## **Section 6. Site Plan Review Criteria**

The **permitting authority**, in reviewing projects requiring **Site Plan Approval** under this Ordinance, shall make positive written conclusions and factual findings as to whether the applicant has submitted adequate evidence showing that the following criteria have been met.

In addition, the minimum standards listed in this Section shall govern all permits and approvals issued under this Ordinance. In reviewing applications submitted pursuant to this Ordinance, the **permitting authority** shall consider these minimum standards prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

### **A. Parking and Loading**

**Criterion:** Adequate provision has been made for off-**street** parking and loading.

#### **Minimum Standards:**

1. All **commercial recreation facilities** shall have adequate off-**street** parking for the anticipated maximum attendance at any event.

### **B. Traffic Movement, Congestion and Safety**

**Criterion:** Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of and within the proposed project and any traffic increase attributable to the project will not result in unreasonable congestion or unsafe conditions on a **road** in the vicinity of the project. The **permitting authority** shall consider traffic movement both on-site and off-site in making its determination under this criterion.

#### **Minimum Standards:**

#### **1. Vehicular circulation**

The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles through the site.

- a. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
- b. The layout and design of access ways and parking areas shall provide for safe and convenient circulation of vehicles, including delivery vehicles, and prevent their backing out onto a **street**.
- c. All **roads** shall be designed to harmonize with the topographic and natural features of the site. The **road** network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

#### **2. Pedestrian circulation**

The project shall provide for a system of pedestrian circulation within the site. This system shall connect with existing sidewalks if they exist in the vicinity of the project.

**C. Soil Types, Erosion, Contamination, Drainage, etc.**

**Criterion:** The project will be built on soil types which are suitable to the nature of the project and adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems and/or any other adverse effects of inadequate drainage.

**Minimum Standards:**

**1. Conservation, erosion, and sediment control**

- a. The procedures outlined in the erosion and sedimentation control plan prepared and submitted by the applicant shall be implemented during the site preparation, construction, and cleanup stages.
- b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the Maine Erosion and Sediment Control Best Management Practices (BMPs). To the extent the applicant cannot employ all of the BMPs, the application shall identify all BMPs from which relief is sought, together with the reason the BMP cannot be employed and any alternative measures proposed by the applicant. The **permitting authority** will determine whether to waive full compliance with the BMPs as part of its **Site Plan Review**.
- c. In addition:
  - i. The project shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
  - ii. Whenever feasible, natural **vegetation** shall be retained, protected and supplemented;
  - iii. The disturbed area and the duration of exposure shall be kept to a practical minimum;
  - iv. Permanent (final) **vegetation** and mechanical erosion control measures shall be installed as soon as practicable;
  - v. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an **abutting lot**, unless specifically permitted by the **permitting authority**.
  - vi. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any **lot line** unless specifically permitted by the **permitting authority** and upon the prior written agreement of the **owner** of such **abutting lot**;
  - vii. Whenever sedimentation is caused by stripping **vegetation**, re-grading or other development, it shall be the responsibility of the applicant to remove it from all adjoining surfaces, drainage systems, and watercourses and to repair any damage at his expense as quickly as possible; and
  - viii. Maintenance of drainage facilities or watercourses originating completely on private property is the responsibility of the **applicant** to the point of open discharge at the **lot line** or at a communal watercourse on the **lot**.

**2. Groundwater protection**

- a. The quantity of water to be taken from groundwater shall not substantially lower the water table, cause salt water intrusion into any existing well, cause unreasonable changes in groundwater flow, or unreasonable ground subsidence, based upon ten (10)-year drought water levels.
- b. The project shall not cause pollution or unreasonable diminution of the aquifer from which it is extracted.
- c. Any project located in a defined public water supply aquifer recharge area shall not have an unreasonable adverse effect upon that public water supply.
- d. Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Maine CDC Maximum Exposure Guidelines (MEGs) for Drinking Water. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination.
- e. The project shall not increase any contaminant concentration in ground water to more than one-half of the Primary Drinking Water Standards, nor more than the Secondary Drinking Water Standards (however, where existing ground water pollution already exceeds the Secondary Drinking Water Standards, the project shall not cause the concentration of the parameters in question to exceed one hundred fifty percent (150%) of the ambient concentration).
- f. All projects shall be designed to minimize any increase in storm water runoff from the site from the natural predevelopment conditions. Storm water runoff systems should be designed to facilitate aquifer recharge where it is advantageous to compensate for groundwater withdrawals and infiltration, but should avoid recharge where the groundwater effects may be harmful.
- g. Where possible, existing natural runoff control features such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff. The use of enclosed components (such as pipes, etc.) should be minimized where natural systems are able to accommodate runoff.
- h. Design of permanent runoff storage facilities should consider safety, appearances, recreational use, and the cost and effectiveness of maintenance operations in addition to the primary storage function.
- i. Energy dissipaters and other forms of outfall protection shall be employed where enclosed drains discharge into soils subject to erosion.
- j. Storm water management systems shall be maintained as necessary to ensure that they function properly.
- k. If the project will result an increased total flow of runoff that will be discharged into the municipal storm sewer system, the applicant shall pay for the cost of improvements to the municipal system so that it will have the capacity to handle one hundred twenty five percent (125%) of the projected total flow. Payment shall be made within thirty (30)

days of the date **Site Plan Approval** is granted. No construction may commence on the project before this payment is made.

**D. Outdoor Displays and Storage Areas**

**Criterion:** Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.

**E. Hazards and Nuisances**

**Criterion:** Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property.

**Minimum Standards:**

**1. Emissions**

- a. Emissions of dust, dirt, fly ash, fumes, vapors or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.
- b. No land use activity shall be permitted to produce unreasonable, offensive, or harmful odors perceptible beyond the **lot lines**, measured either at ground or habitable elevations.

**2. Lighting**

- a. No land use activity shall be permitted to produce unreasonable glare or brightness beyond the **lot lines**.
- b. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view of motorists, pedestrians, or **buildings on abutting lots**.
- c. Direct or indirect illumination shall not exceed 0.5 foot-candles upon residences on **abutting lots**.
- d. All exterior lighting shall be designed to ensure safe movement of people and vehicles, and to minimize adverse impact on **abutting lots** and **public roads**. Adverse impact is to be judged in terms of hours of use, hazards to people and vehicular traffic and potential damage to the value of **abutting lots**. Lighting shall be arranged to minimize glare and reflection on **abutting lots** and the traveling public.

**3. Hazardous materials**

- a. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the rules and regulations adopted by the State of Maine.
- b. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions to 38 M.R.S. §§ 541-560 which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.



- c. Oil and chemical storage shall be in conformance with rules and regulations adopted by the State of Maine applicable to the stored substance.
4. The applicant shall have the burden of proof to assure the Planning Board or **CEO** that all provisions of the above statutes have been met before **Site Plan Approval** may be granted.

**F. Buffers, Screening, Landscaping, Natural Features**

**Criterion:** Adequate provision has been made with regard to buffers, screening, landscaping and the preservation and enhancement of significant natural features.

**G. Avoidance of adverse effects, generally**

**Criterion:** Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area or the community in general, including scenic areas designated in the most recent Comprehensive Plan adopted by the Town, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including identified deer wintering areas, existing uses, air quality, water quality, or other natural resources within the Town or in neighboring towns.

**Minimum Standards:**

1. Any proposed land use activity that may disturb an archaeological site as determined by the Maine Historic Preservation Commission, or historic site which is listed on or eligible to be listed on the National Register of Historic Places, shall require the applicant to submit comments in writing from the Maine Historic Preservation Commission concerning the proposed project. These comments shall be considered by the **permitting authority** in deciding whether to grant the permit.

**H. Avoidance of Adverse Effects on Nearby Properties**

**Criterion:** Adequate provision has been made to prevent any undue adverse effect upon **abutting** or nearby **lots**.

**Minimum Standards:**

**1. Wastewater disposal**

- a. Projects served by subsurface wastewater systems  
All projects served by subsurface wastewater systems shall construct and use such systems and the overall project in accordance with the design, specifications and terms of the subsurface wastewater disposal system application and permit.
- b. Subsurface wastewater systems in common ownership  
Where two (2) or more **buildings** or **lots** in different ownership share a common subsurface wastewater disposal system, the system shall be owned and maintained in common by an owners' association. Covenants shall be made in the deeds for each **lot** requiring membership in the association and providing adequate funding of the association to assure proper maintenance of the system.

2. **Water Supply**

- a. The project shall be provided with a system of water supply that provides an adequate supply of water meeting the standards of the State of Maine for drinking water. Where groundwater pollution exceeds the Primary Drinking Water Standards and the project is to be served by on-site ground water supplies, the applicant shall provide adequate evidence of the manner in which the water quality will be adequately improved or treated.
- b. For **Major Developments** the applicant shall construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Planning Board may waive the requirement for dry hydrants or ponds only with the written concurrence of the Blue Hill Fire Chief.

3. **Lot line setback**

- a. Except as provided in Section 6(N)(1) and Section 6(H)(3)(c)
- b. ) below, all **structures** must be set back at least ten (10) feet from all **lot lines** and must be set back at least ten (10) feet from the edge of the traveled way of any **road**.
- c. Original **non-conforming structures** are not subject to the setback requirements above; however, replacements or significant repairs to such **structures** shall be subject to such requirements except as provided in Section 6(H)(3)(c) below.
- d. In the event a **non-conforming structure** is removed, damaged, or destroyed, such **structure** may be repaired or replaced, subject to the following provisions:
  - i. Any such reconstruction or replacement may not increase the **footprint** of the previous **structure** within the setback area. Furthermore, reconstructed or replaced **buildings** may not be sited within the **footprint** of a previous non-building **structure**.
  - ii. A permit for the project must be obtained within eighteen (18) months of the date of the damage, destruction, or removal of the **non-conforming structure**.
  - iii. The provisions of Section 6(A) and Section 6(B) will only apply to the same extent that they applied to the **non-conforming structure** and its **commercial use**.
  - iv. An existing **commercial use** of a **non-conforming structure** may be changed to another **commercial use** provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use as determined by the **permitting authority**.
  - v. A permit for the repair or replacement of a **non-conforming structure** shall only be granted in the event no reasonable alternative is available. The historic appearance and context of the **non-conforming structure** shall be a factor in making the determination of reasonableness.

I. **Municipal Services**

**Criterion:** Adequate provision has been made to avoid any undue burden on municipal services including, but not limited to, water, fire, sewer, and police services.

**Minimum Standards:**

**1. Municipal sewer system**

- a. Any project that will dispose of its wastewater through the municipal sewer system, and that will use more than thirty-three and one third percent (33 1/3%) of the excess capacity of any portion of the sewer collection system, treatment facility and/or its discharge permits, shall be approved only if the applicant pays the cost of replacing the excess capacity needed for the project. Payment shall be made within thirty (30) days of the date **Site Plan Approval** is granted. No construction may commence on the project before this payment is made.
- b. All discharges into the system shall be in accordance with the Sewer Use Ordinance for Town of Blue Hill, Maine, as it may be amended from time to time.

**J. Provision for Proper Operation**

**Criterion:** Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate safety measures, utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.

**Minimum Standards:**

1. For **Major Developments**, the project owner and operator of record shall have adequate technical and financial capacity to construct, operate, and decommission, as needed, the proposed development or land use activities on the site.

**K. Campgrounds**

**Criterion:** **Campgrounds** shall meet the following requirements, in addition to the other requirements of this Ordinance.

**Minimum Requirements:**

1. **Campsites** and all **structures** shall be located at least fifty (50) feet from any **lot** line, and at least one hundred (100) feet from any residence on an **abutting lot**.
2. **Campsites** shall be laid out and screened in such a manner that they are not visible from abutting **public roads**, residences or approved **subdivision lots**.
3. No **recreational vehicle** shall be exhibited for sale on the **lot**.
4. Stored **recreational vehicles** shall be screened in such a manner that they are not visible from abutting **public roads**, residences or approved **subdivision lots**.
5. Site density shall not exceed twenty (20) tent sites or sixteen (16) **recreational vehicle** sites per acre (excluding circulation **roads**).
6. **Campsites** located in a **shoreland area**, shall have a minimum **shore frontage** of seventy-five (75) feet.

7. A minimum of three hundred (300) square feet of off-**street** parking plus maneuvering space shall be provided for each **recreational vehicle**, tent or shelter site.
8. There shall be a minimum of twenty-five (25) feet between **recreational vehicles**.
9. There shall be a minimum of seventy-five (75) feet between **recreational vehicles** and tent sites.
10. Each **recreational vehicle**, tent site or covered shelter site shall include at least one picnic table per site, and at least one (1) covered trash receptacle for every three (3) sites. Trash receptacles shall be emptied at least once per day.
11. There shall be one toilet and lavatory for each five (5) **campsites**. Water and sewage systems shall conform to state regulation.
12. Each **campsite** shall be equipped with a masonry or metal fireplace, the construction of which is approved by the Blue Hill Fire Chief.

**L. Signs**

**Criterion:** Adequate provision has been made to ensure that any **signs** associated with the project do not create a safety hazard.

**Minimum standards:**

1. Where vision may be obscured entering a **public road** the whole of a sign board or display elements of any free-standing **sign** shall be either below three (3) feet or above seven (7) feet in height above **street** level.
2. Any free-standing **sign** located in any **yard** space abutting a **public road** shall be set back at least ten (10) feet from the edge of the traveled way of such **public road** and at least twelve (12) feet from all other **lot lines**. Where an existing **principal structure** is located within fifteen (15) feet of the edge of the traveled way of a **public road**, a free-standing **sign** may be located no closer than five (5) feet to the edge of the traveled way.
3. These **sign** design and placement standards shall not apply to the following:
  - a. Legal notices, identification, informational or directional control **signs** erected or required by a governmental entity; and
  - b. **Signs** that guide or direct traffic and parking on private property, but bear no advertising or commercial identification.

**M. Site Conditions**

**Criterion:** Adequate provision has been made to ensure that, during construction, the site and surrounding area is safe.

**Minimum standards:**

1. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition that could lead to personal injury or property damage, shall be immediately corrected by the applicant upon an order by the **CEO** or other authorized

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person. The applicant shall make provision for disposal of oil and grease from equipment, and the site area should be regularly treated to control dust from construction activity; and

2. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots, and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the **CEO**.

**N. Permissible Solar Farms**

**Criterion:** *Permissible solar farms* shall meet the following minimum standards, in addition to the other requirements of this Ordinance.

**Minimum Standards:**

1. Minimum Setbacks. *Permissible solar farms* and all **structures** shall meet the following minimum setbacks:

	Minimum setback from any <i>lot line</i>	Minimum setback from any residence on an <i>abutting lot</i>
<i>Local-scale solar farm</i>	50 feet	150 feet
<i>Solar microgrid</i>	As the <b>permitting authority</b> determines is necessary to satisfy any other applicable requirements of this Ordinance	

2. The **height** of any ground-mounted solar photovoltaic (PV) panel associated with a *permissible solar farm* shall not exceed twenty-five (25) feet.
3. Decommissioning and Removal; Abandonment. The owner or operator of record of a *permissible solar farm* shall, at its expense, be responsible for the decommissioning and removal of the *permissible solar farm*, in compliance with a decommissioning plan approved by the **permitting authority**, within twelve (12) months of the end of the manufacturer-identified useful life of the solar photovoltaic (PV) technology, or 90 days of the receipt of a notice to the owner or operator of record of a determination by the **CEO** that the *permissible solar farm* has been abandoned. A *permissible solar farm* shall be considered abandoned if it ceases to generate electricity for a consecutive period of twelve (12) months. The **permitting authority** may extend the 12-month decommissioning deadline if the owner or operator of record demonstrates that the solar photovoltaic (PV) technology is likely to remain economically feasible for its intended use for longer than twelve (12) months after the end of its manufacturer-identified useful life
4. Performance Guarantee. The **permitting authority** may, as a condition of approval, require the owner of a *permissible solar farm* to provide a performance guarantee in the form of an escrow account, irrevocable letter of credit, or other form satisfactory to the Town in an amount equal to the anticipated total cost of decommissioning. The amount of the performance guarantee may be reviewed and adjusted by the **permitting authority** from time to time during the manufacturer-identified useful life of the solar photovoltaic (PV) technology if the anticipated cost of decommissioning materially changes.

**O. Affordable Housing Development**

**Criterion:** An *affordable housing development* shall meet the following minimum standards, in addition to the other requirements of this Ordinance.

**Minimum Standards:**

1. More than half of the total dwelling units in the affordable housing development must be designated as affordable rental units or affordable homeownership units.
2. Prior to the sale or occupancy of any unit within an affordable housing development, the owner of the affordable housing development must execute a restrictive covenant, recorded in the Hancock County Registry of Deeds and enforceable by a third party acceptable to the Planning Board, ensuring that, for at least thirty (30) years after completion of construction, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% (for rental housing) or 120% (for owned housing) of the local area median income at the time of initial occupancy. The restrictive covenant must run with the land and encumber the affordable housing development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town of Blue Hill and a third party acceptable to the Planning Board.
3. The developer of an affordable housing development must make adequate provision for the long-term maintenance, repair, and improvement of any septic systems and drinking water supplies proposed to serve the units within the affordable housing development, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).
- 6.4. Nothing in this section exempts an affordable housing development from any other requirements of this Ordinance or any other municipal ordinances or regulations, including any subdivision or shoreland zoning requirements.

**O.P. Ordinance Conformity**

**Criterion:** Adequate provision has been made to ensure that the proposed project conforms in all respects with the provisions of this Ordinance.

**Section 7. Enforcement**

**A. Enforcement Authority**

The **CEO** is authorized to enforce the provisions of this Ordinance, and to take legal action for enforcement at the direction of the Municipal Officers of the Town.

**B. Violations**

1. Any **person** who undertakes any land use activity listed in Section 3 as requiring a **Site Plan Review Permit**, without first obtaining such permit, violates this Ordinance. Each day that such use continues shall constitute a separate violation of this Ordinance.
2. Any **person** who, having received a **Site Plan Review Permit**, thereafter conducts the land use activity in such a manner contrary to any condition set forth in the **Site Plan Review Permit**, or to the provisions of this Ordinance, violates this Ordinance. Each day that such use continues shall constitute a separate violation of this Ordinance.
3. Every violation of this Ordinance may be prosecuted pursuant to 30-A M.R.S. § 4452.

