

**TOWN OF
SUMNER, MAINE**

**SITE PLAN REVIEW
ORDINANCE**

ENACTED: August 11, 2008

EFFECTIVE: August 11, 2008

CERTIFIED BY: Susan C. Runes
Susan C. Runes, Clerk



CERTIFICATION OF TOWN OF SUMNER SITE PLAN REVIEW ORDINANCE

We, the Selectpersons of the Town of Sumner, do hereby certify that the attached ordinance "Town of Sumner Site Plan Review Ordinance" is a true copy of the proposed ordinance to be posted with the Town Meeting Warrant and submitted to the voters of the Town of Sumner for their approval.

This proposed ordinance was submitted by the Sumner Ordinance Update Committee after a public hearing on June 17, 2008, 6:30 PM, at the Sumner Town Office.

Clifford S. McNeil 7/31/08
Clifford S. McNeil Date

Glenn Hinckley 7/31/08
Glenn Hinckley Date

Mark Silber 7/31/08
Mark Silber Date

ATTESTATION OF TOWN OF SUMNER SITE PLAN REVIEW ORDINANCE

Attest: A true copy of an ordinance entitled "Town of Sumner Site Plan Review Ordinance" as certified to me by the municipal officers of Sumner on the 31st day of July, 2008.

Susan C. Runes August 5, 2008
Susan C. Runes, Clerk Date

Table of Contents

Summary.....	4
Section 1. Purposes.....	4
Section 2. Applicability of Site Plan Review.....	4
A. This Ordinance shall apply to:.....	4
B. This Ordinance shall not apply to:.....	5
C.....	
Section 3. Review and Approval Authority.....	5
Section 4. Review Procedures.....	6
A. Pre application conference.....	6
B. Following pre application meeting.....	6
Section 5. Application Review.....	7
A. Application Submission & Review Procedure.....	7
B. Public Hearing.....	7
C. Board Action.....	8
D. Final Approval and Filing.....	8
E. Waivers.....	8
F. Fees.....	9
Section 6. Submission Requirements.....	9
A. General Information.....	9
B. Existing Conditions.....	10
C. Proposed Development Activity.....	11
D. Approval Block.....	11
E. Narrative Statement.....	11
F. Informational Sign.....	13
Section 7. Approval Standards and Criteria.....	13
A. Preserve and Enhance the Landscape.....	13
B. Utilization of Site.....	13
C. Relationship of the Proposed Buildings to the Environment.....	13
D. Municipal Services.....	14
E. Conformance with the Sumner Comprehensive Plan.....	14
F. Historical & Archaeological Resources.....	14
G. Air Quality.....	14
H. Water Quality Protection.....	14
I. Utilities.....	15
J. Adequacy of Road System.....	15
K. Parking & Circulation.....	16
L. Advertising Features.....	16
M. Exterior Lighting.....	16
N. Emergency Vehicular Access.....	16
O. Water Supply.....	16
P. Sewage Disposal.....	16
Q. Solid Waste Management.....	16
R. Endangered or Threatened Species.....	16

S. Ground Water.....	16
T. Floodplain Protection	16
U. Shore land Areas	16
V. Storm Water Management.....	16
W. Erosion and Sedimentation Control.....	17
X. Hazardous, Special, and Radioactive Materials.....	18
Y. Noise	18
Z. Odors.....	18
AA.The Proposed Project	18
Section 8. Special Provisions.....	18
A. Projects Located on Sand and Gravel Aquifers.....	18
Section 9. Post Approval	19
A. Incorporation of Approved Plan.....	19
B. Performance Bond.....	19
C. Changes and Amends to Approvals	20
Section 10. Enforcement.....	20
A. Notification of Violation	20
B. Legal Action.....	20
C. Fines.....	20
Section 11. Expiration of Approval	20
Section 12. Appeals	20
Section 13. Authority.....	20
Section 14. Validity and Separability, Conflict with other Ordinances and Effective Date	20
Section 15. Amendments	21
Section 16. Definitions	21

SITE PLAN REVIEW ORDINANCE TOWN OF SUMNER, MAINE

Summary Statement:

This Ordinance will provide the Town with a procedure to review development proposals with the intention of encouraging reasonable growth that will add to the existing positive features of Sumner, Maine. It is intended to aid the applicant in presenting a proposal that is well organized and informative, and in achieving a result that contributes to the orderly growth of the Town.

Procedures for Site Plan Review by the Planning Board are delineated, and provision is made for an initial pre-application conference when an applicant and the Planning Board meet to discuss the project informally before any paperwork is begun.

At this meeting the applicant and the Planning Board discuss the proposed site of the project, the nature of its uses, and issues or questions about existing regulations and their applicability to the project. If a Site Plan Review is required, the Planning Board will inform the applicant of the submission requirements. With some Home Occupations, a Site Plan Review may not be required, and the Planning Board will advise the owner.

Processes for Application Review, Public Hearing, Planning Board actions, Final Approval, and Filing are detailed. Associated Costs are listed.

According to responses to a questionnaires received in designing the comprehensive plan, it is important to Sumner residents that the environment and our way of life be preserved and enhanced, therefore the procedures included in the Sumner Site Plan Review Ordinance attempt to assure the continuance of the way of life that makes Sumner special.

Section 1. Purposes

The purposes of this Ordinance are to protect the public health, safety and welfare of the residents and tax payers of the Town of Sumner, to implement the Comprehensive Plan and to insure an orderly growth and development of the Town.

Section 2. Applicability of Site Plan Review

A person who has right, title, or interest in a parcel of land must apply for and obtain site plan approval prior to commencing any of the following applicable activities on the parcel, obtaining a building notification certificate or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading.

A. This Ordinance shall apply to:

All development proposals for new, or substantial enlargements of non-residential (including mineral extractions, commercial, retail, industrial, recreational, institutional, public) structures (or their demolition) or uses;

1. Change in use including new uses of existing structures or land which would employ new materials and /or processes not normally associated with the existing or previous use;
2. Home Occupations (when determined by the Planning Board that Site Plan Review is required);
3. Campgrounds;

4. Development proposals for conversion of single- or two-family dwelling units into any of those uses detailed in **Section 2. A. 1.** above;
5. Land use for any liquid or solid waste disposal either as a primary purpose or as a related aspect of the development (Accessory Use).

B. This Ordinance shall not apply to:

The following activities shall not require site plan approval. (Certain of these activities will, however, require the owner to obtain a building notification certificate, plumbing permit, or other state or local approvals.)

1. The construction, alteration, or enlargement of a detached single family dwelling or two-family dwellings, and customary out-buildings or accessory structures by, and for, the private use of the family(s) residing on the property on which the buildings are to be located.
2. The placement, alteration, or enlargement of a single manufactured housing or mobile home dwelling, including accessory buildings and structures on individually owned lots.
3. Construction of barns, stables, and other agricultural related buildings by and for the private use of families residing on the property on which the building is to be located.
4. All nonstructural uses of land for agricultural or forestry management purposes.
5. Any publicly operated structures or enterprises.
6. Any Home occupation which meets all of the following conditions:
 - a. Is incidental and secondary to the primary residential use of the premises;
 - b. Employs persons who make the residence their permanent home and employs no more than two persons (or their FTE [Full Time Equivalent] at any given time);
 - c. Do not display any exterior sign larger than eight (8) square feet, any exterior indications of the home occupation or variation from the residential character of the principal dwelling or accessory structure.
 - d. Do not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare/ excessive light, radiation, fumes, or electrical interference detectable to the normal senses or which interferes with normal radio or television reception, legal communication systems (cellular telephones, Ham radios or satellite reception of any kind) or causes other nuisances which extend beyond the limits of the subject property;
 - e. Are likely to generate no objectionable increase over regular daily or seasonal traffic associated with residential uses;
7. Home Occupations which do not meet all of the criteria in **Section 2. B. 6. a-e** above shall comply with this ordinance and shall be subject to Site Plan Review. The Planning Board shall not have the authority to waive this paragraph or any of the provisions of **Section 2. B. 6. a-e** above..

Section 3. Review and Approval Authority

- A. The Planning Board shall administer this ordinance and is authorized to review and act on all site plans for development requiring site plan review as defined in **Section 2. A.** above.
- B. In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions.
- C. If it is determined that an application is defined as a subdivision by **Title 30-A, M.R.S.A. Section -4401**, the applicant may, at the Planning Board's discretion, be exempt from the provisions of this Ordinance, but must comply with the Town of Sumner's Subdivision Ordinance.

Section 4. Review Procedures

The Planning Board shall observe the following procedures in reviewing applications for site plan review.

A. Pre-application conference Prior to submitting a formal application, the applicant or his/her representative shall request a pre-application conference with the Planning Board. The pre-application conference shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application or proceeding under **Title 1 M.R.S.A. §302**. No decision or binding agreements on the substance of the plan shall be made at the pre-application conference.

1. Purpose

The purposes of the pre-application conference are to:

- a. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal;
- b. Avoid future confusion and unnecessary expense to both the town and the person involved in the proposed development;
- c. Allow the applicant to understand the development review process and required submissions;
- d. Identify issues that need to be addressed in future submissions;
- e. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

2. Information Required

The applicant will be prepared to discuss the following with the Planning Board:

- a. The proposed site, including its location, size, and general characteristics;
- b. An accurate sketch plan of the proposed project, consistent with the Building Notification requirements. The sketch plan shall consist of a rough outline or map of the proposed project, a penciled sketch of the parcel showing the proposed layout and dimensions of buildings, parking areas, set-backs, and other features which may aid the Board to understand the project
- c. The nature of the proposed use and potential development,
- d. Any issues or questions about existing municipal regulations and their applicability to the project, and
- e. The Board may request an inspection of the site.

B. The Planning Board, following the pre-application conference, will make a determination as to whether or not the proposed project requires Site Plan Review. The Board’s decision will be in the minutes along with the reasons for its determination. In the case of a proposed Home Occupation the determination will indicate that it complies with all the provisions of **Section 2.B.6.a-e**. If Site Plan Review is required, the Board will inform the applicant of the submission requirements.

Section 5. Application Review

A. Application Submission and Review Procedures by the Planning Board

All applications for Site Plan Review shall be made in writing to the Board on forms provided for that purpose and shall be by the owner of the property or the owner’s agent as designated in writing by the owner. Application forms are available at the Town Office during normal business hours.

The applicant shall prepare and submit a Site Plan Review application, including the development plan and supporting documentation that meets the submission requirements set forth in **Section 6**.

1. At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant. The Planning Board shall notify the Selectmen, Fire Chief, Road Commissioner and the Plumbing Inspector of the pending application.

2. Within thirty (30) days of the receipt of a fully completed site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.

3. When the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, and place the item on the agenda for substantive review within thirty (30) days of this finding.

4. The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. The Board may decide not to hold an on-site inspection when the site is snow covered. If an application is pending during a period when there is snow cover, the deadline by which the Planning Board shall taken final action on the application as specified in **Section 6**. may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection.

B. Public Hearing

The Planning Board shall hold a public hearing within thirty (30) days of having notified the applicant in writing that a complete application has been received and shall cause notice of the date, time and place of such hearing to be given to the applicant, and published in a newspaper of general circulation in Sumner at least two (2) times. The date of the first publication shall be at least seven (7) days prior to the hearing.

Public hearings shall be conducted in accordance with the procedures in **Title 30-A M.R.S.A., Section 2691, Subsection 3 a, b, c, d, and e**.

The Board shall notify all property owners within five-hundred (500) feet of the boundaries of the project parcel of the public hearing by 1st Class mail.

C. Board Action

1. Within thirty (30) days following the public hearing or sixty (60) days of the determination of a complete application, the Board shall either approve the application, approve the application with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Board and the applicant.
2. Within seven (7) days of reaching their decision, the Board shall notify the applicant in writing of any action taken and the reasons for taking such action.
3. The Board may impose conditions on any site plan approval where it finds that such conditions are necessary to insure that the project will comply with the criteria and standards of this Ordinance. All elements and features of the plan and all representations made by the applicant concerning the project and use of the property which appear in the record of the Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Board.
4. In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, all town officials who received notice under **Section 5. A. 1**, and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval.
5. This notification requirement can be met through the distribution of minutes of the meeting containing the findings of fact, the decision of the Board and any conditions of approval.

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

D. Final Approval and Filing

Upon completion of the requirements of Sections 5 and 6 an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer.

E. Waivers

1. The Applicant shall submit requests for waivers in writing at the time of the submission of the application and its documentation.
2. The Board may grant waivers in circumstances:
 - a. Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance;
 - b. where there are special circumstances of a particular project.
3. With the exception of **Section 2.B. 6. a-e** and **Section 2. B.7.** above, the Board may waive any provision of this Ordinance provided that:
 - a. the information is not required to determine compliance with the standards;
 - b. such waivers have no adverse impact on the Town of Sumner; and
 - c. such waivers will not have the effect of nullifying the purpose of this Ordinance, the Town of Sumner Comprehensive Plan, or any other town ordinance or state law.
4. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. In the minutes of the meeting the Planning Board shall state the reasons it is granting any waiver.

F. Fees

1. Application Fee. An application for site plan approval shall be accompanied by a fee of \$100.00 plus \$5.00 per 1,000 square feet or portion thereof of gross floor area, parking and storage areas. For mining operations and outdoor-based uses such as but not limited to golf course, recreation areas and campgrounds and for structures without floor areas such as communication towers, there shall be a fee of \$150.00. This application fee shall be paid by check payable to the Town of Sumner, Maine. This fee shall not be refundable.

2. Review escrow account

\$150.00 per 2,000 square feet or portion thereof of gross floor area, parking and storage area, for mining operations and outdoor-based uses such as but not limited golf courses, recreation areas and campgrounds and for structures without floor areas such as communication towers, there shall be a payment of \$500.00, deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. If the balance in the applicant's portion of the Board Review Escrow Account shall be drawn down by 75%, the Board shall require that an additional 50% of the original review escrow account fee be deposited by the applicant. Those monies deposited by the applicant and not spent by the Board in the course of its review shall be returned to the applicant within thirty (30) days after the Board renders its final decision on the application.

Section 6. Submission Requirements

Applications for site plan review must be submitted on application forms provided by the Town of Sumner. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Chair of the Planning Board at one of its regular meeting. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive submission requirements as outlined in **Section 5.E**.

All applications for site plan review must contain the following information:

- (1) A fully executed and signed copy of the application for site plan review.
- (2) Evidence of payment of the application and technical review fees.
- (3) Seven (7) copies of written materials plus seven (7) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawing must be at a scale sufficient to allow review of the items listed under the approval standards and criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development:

A. General Information

1. Record owner's name, address, and phone number and applicant's name, address and phone number if different.
2. The location of all required building setbacks, yards, and buffers.
3. Names and addresses of all property owners within five hundred (500) feet of any and all property boundaries, including those across a road or street. Both the mailing address and the physical location address must be included. An addressed, postage paid envelope with certified mailing and return receipt request must be provided for each abutter.

4. Sketch map showing general location of the site within Sumner.
5. Boundaries of all contiguous property under the total or partial control of the owner or applicant regardless of whether all or part is being developed at this time.
6. The tax map and lot number of the parcel or parcels on which the project is located.
7. A perimeter survey of the parcel made and certified by a Professional Land Surveyor pursuant to **Rule 12, Standards of Practice, by the State Board of Regulation of Land Surveyors**. This survey shall relate to reference points showing magnetic north, graphic scale, corners of parcel and date of survey and total acreage. It shall include the bearings and length of all property lines of the property to be developed and the source of this information. It shall also include areas within 250 feet of the proposed development site.
8. Existing and proposed topography of the site at contour intervals of not more than 10 feet in elevation unless otherwise specified by the Planning Board if major changes to the existing topography are proposed.
9. A copy of the deed to the property (Book Number and page from the Registry of Deeds), an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
10. The name, registration number, and seal of the person who prepared the plan, if applicable.
11. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

B. Existing Conditions (Shown on a map provided by the applicant)

1. Location and size of any existing culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, and power and telephone lines and poles on the property to be developed, on abutting streets, or land that may serve the development, and an assessment of their adequacy and condition to meet the needs of the proposed use. Appropriate elevations must be provided as necessary to determine the direction of flow.
2. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
3. The location, dimensions and ground floor elevation of all existing buildings on the site.
4. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
5. Location of intersecting roads or driveways within two hundred (200) feet of the site.
6. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, stands of trees, and other important or unique natural areas and site features, including but not limited to, floodplains, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, and historic and/or archaeological resources, together with a description of such features.
7. The direction of existing surface water drainage across the site.
8. The location, front view, dimensions, and lighting of existing signs.

9. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
10. The location of the nearest dry hydrant or other water supply for fire protection.

C. Proposed Development Activity (Shown on an overlay at same scale as map for Existing conditions)

1. A general description of the proposed use or activity including: products to be manufactured, description of and volume of manufacturing by-products and wastes (and the plans for disposal of these by-products and wastes), types of products to be warehoused and types of products to be sold.
2. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, including soils test pit data if on-site sewage disposal is proposed. Evidence of adequate ground water supply and quantity shall be submitted by a well driller or a hydro geologist familiar with the area.
3. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
4. Method for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
5. The location, dimensions, and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways and any changes in traffic flow onto or off-site.
6. Proposed landscaping and buffering.
7. The location, dimensions, total floor area and ground floor coverage, and ground floor elevation of all proposed buildings or building expansion proposed on the site. This is to include percentages of lot covered by each building or structure.
8. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
9. Location and type of exterior lighting, describing the direction and intensity, so as to minimize the effects on neighboring properties and roadways.
10. The location of all utilities, including fire protection systems.
11. An estimate of the peak hour and daily traffic to be generated by the project.
12. Storm water calculations and a control plan designed to accommodate the 100-year storm.
13. An erosion and sedimentation control plan, and water quality and/or phosphorous export management provisions, if the project requires a storm water permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based upon the scale of the project or the existing conditions in the vicinity of the project.

D. Approval Block

Space must be provided on the plan drawing for the signatures of the Planning Board members and date together with the following words, "Approved: Town of Sumner Planning Board."

E. Narrative Statement

A written, narrative statement by the applicant that supplies the following information and is substantiated by the relevant documents as listed on the application is included.

1. The mailing address to which all correspondence from the Board should be sent.
2. Evidence by the applicant of right, title or interest in the property for which the application covers.
3. A copy of the existing and/or proposed easements, restrictions and covenants placed on the property.
4. Statement of financial capacity which should include the names and sources and dollar amounts of the financing parties including banks, government agencies, private corporations, partnerships, and limited partnerships and whether these sources of financing are for construction loans or long-term mortgages or both.
5. The nature and type of any air emissions that could result in air pollution and the plan to control them.
6. The applicant shall provide a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be provided or financed by the Town of Sumner or quasi-municipal districts. This list shall include but not be limited to: street reconstruction, maintenance, and snow removal; solid waste disposal; ambulance service and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation from the project.
7. A statement from the Fire Chief as to the availability of dry hydrants and/or fire ponds or provisions of fire protection services including issues of adequate ingress and egress, turn-around space for emergency vehicles and a determination as to whether or not the site meets state and town requirements regarding percentage of slope/grade to allow access for emergency vehicles, especially during icy road conditions.
8. An estimate of the date when construction will start, when uses(s) will begin and when the project will be completed.
9. A description of the current or most recent use of the building or land including type of products(s) sold or manufactured, operating hours, nature and number of patrons served on a daily basis, peak hours, and other items as the Planning Board may find necessary.
10. Traffic data shall include the following when required by the Planning Board:
 - a. the estimated peak hour and average daily traffic to be generated by the proposal;
 - b. existing traffic counts on surrounding roads;
 - c. traffic accident data covering the most recent three-year period for which such data is available.
11. Maine Department of Transportation Driveway/Entrance Permit if the project will have access to Routes 219, 140 and / or Greenwoods Road.
12. The type, size, and location of all machinery likely to generate appreciable noise at the lot lines.
13. A phosphorus impact analysis and control plan when located in the direct watershed of a great pond.
14. Other local, State or Federal permits as required. The Board may require the applicant to submit

letters from appropriate State and Federal agencies indicating all applicable requirements will be met.

15. Waivers requested accompanied by reasons and justification. The Planning Board may waive any of the submission requirements when the Planning Board makes written finding of fact included in the minutes of the Planning Board meeting and determines that the scale of the project is of such magnitude as to make the information unnecessary.

F. Informational Sign

1. Upon submission of the application the applicant shall install in a conspicuous location on the project parcel a 4' x 4' sign that is legible and has a professional quality. The sign shall have a white background with contrasting lettering. The minimum lettering size shall be four (4) inches in height. The sign shall contain the following information.

**Proposed Development Site
Project Name
Name and Address of Applicant
For Application Information Contact-
Town of Sumner
388-2866**

2. Within seven (7) days after final action the applicant shall remove the sign.

Section 7. Approval Standards and Criteria

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The site plan review application shall be approved unless, in the judgment of the Planning Board, the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant who must produce evidence sufficient to warrant a finding that all applicable criteria have been met.

A. Preserve and Enhance the Landscape: The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from 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 uses. All new construction at the site shall be at least 35 feet away from all property lines to allow appropriate landscape buffering of the site from all abutting properties.

B. Utilization of the Site: The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to, wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

C. 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 so as to have a minimally adverse affect on the environment and the aesthetic qualities of the developed and neighboring areas. The Board shall consider the following criteria:

1. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings.
2. Buildings shall have good scale and be in harmonious conformance with permanent neighboring development.
3. Mechanical equipment or other utility hardware excluding communication devices on roofs, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so that visibility from any public way is minimized.

D. Municipal Services: The development will not have an adverse impact on the municipal services including municipal road systems, fire department, law enforcement, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

E. Conformance with the Sumner Comprehensive Plan: The proposed project is in conformance with the Sumner Comprehensive Plan and other applicable ordinances. In addition, environmentally sensitive areas which include fresh water wetlands, significant wildlife habitat, unique natural areas shall be conserved as described in the Sumner Comprehensive Plan.

F. Historic and Archaeological Resources: If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.

1. Archaeological Resources: Any proposed development activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least 20 days prior to action being taken by the Board. The Board shall consider comments and recommendations to minimize impacts on such archaeological resources received from the Commission prior to rendering a decision on the application.
2. Historic Locations: The Board shall consider the proposed project's impacts on historic buildings and sites as identified in the Sumner Comprehensive Plan. When a proposed project will include a historic building or site the applicant will design the project to minimize the impacts on the historic building or site.

G. Air Quality: The project will be designed to protect air quality. Should an Air Emission License be required from the Maine Department of Environmental Protection a copy of the approved license will be submitted.

H. Water Quality Protection. All aspects of the project must be designed so that:

1. No person shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that may run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
2. All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshall's Office.
3. If the project is located within the direct watershed of [North Pond is the only water body most at risk from new development.] a 'body of water most at risk from development' or 'a

sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a storm water permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

4. Phosphorus, a natural nutrient, stimulates algal growth that causes a significant decline in water quality. The primary source of new and increasing phosphorus loads in Maine lakes is development-residential, commercial, and industrial. Its impact on water quality is extremely long term. The following phosphorus control measures were created and designed to address this concern.

Projects proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorus runoff to the levels defined below.

Post Project Phosphorous Export by Watershed

Lake Name	Lake Protection Level	Lake Load Allocation (lbs/ppb/yr) ¹	Allowable Phosphorus Export Per Acre(Pounds)
Abbott Pond	Medium	1.67	0.056
Cushman Pond	Medium	0.85	0.064
Labrador Pond	Medium	15.76	0.041
Little Labrador Pond	Medium	5.95	0.036
Moose Pond	Medium	12.01	0.042
North Pond	High	10.98	0.060
Pleasant Pond	Medium	19.31	0.104
Shagg Pond	Medium	0.68	?
Washburn Pond	Medium	0.59	0.055

¹ The pounds per year of phosphorus from the watershed that would produce an increase in phosphorus concentration by more than 1.0 parts per billion.

- (1) Phosphorus export from a proposed project shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Board.
- (2) Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

- I. Utilities:** The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service must be placed underground.
- J. Adequacy of Road System:** The proposed site layout shall provide for safe access and egress from public and private roads by providing adequate location, numbers and control of access points including site distances, turning lanes, traffic signalization, when required by existing and projected traffic flow on the municipal road systems.
- K. Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation including walkways, interior streets, drives, and parking areas shall provide for safe general circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas.
- L. 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 and shall not interfere with or obstruct pedestrian or vehicular traffic.
- M. Exterior Lighting:** All exterior lighting shall be designed to minimize adverse impact on neighboring properties and to insure the safe flow of pedestrian or vehicular traffic, and shall not be of an offensive nature.
- N. Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- O. Water Supply:** The development must be provided with a system of water supply that provides each use with an adequate supply of water and will not cause an unreasonable burden on an existing private water supply.
- P. Sewage Disposal:** The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code. If provisions are proposed for on-site waste disposal, all such systems must conform to the Subsurface Wastewater Disposal Rules.
- Q. Solid Waste Management:** The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
- R. Endangered or Threatened Species:** The Board shall consider the existence of endangered or threatened species as may be identified by the Maine Natural Areas Program. As a condition of approval the Board may require the applicant to undertake protective measures as recommended by the Maine Natural Areas Program.
- S. Ground Water:** The proposed project shall not adversely impact either the quality or quantity of ground water available to abutting properties or to public water supplies. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of 2,000 gallons per day or greater must demonstrate that the ground water at the property lines will comply, following project development, with the Primary and Secondary Standards for Drinking Water established by the Maine Department of Human Services.
- T. Floodplain Protection:** - If any portion of the proposed site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Sumner's Floodplain Management Ordinance.

- U. Shoreland Areas:** The proposed Project will be in compliance with the Shoreland Zoning Ordinance of the Town of Sumner. The proposed project will not adversely affect the quality of any water body or the shoreline of such body of water.
- V. Storm water Management:** Adequate provisions must be made for the collection and disposal of all storm water that runs off from proposed streets, parking areas, roofs and other surfaces, through a storm water drainage system and maintenance plan (i.e., ditches, swales, culverts, underdrains, and/or storm drains), which must not have adverse impacts on abutting or downstream properties.
1. All components of the storm water management system shall be designed to meet the criteria of a 100-year storm.
 2. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
- W. Erosion and Sedimentation Control:** Erosion soil and sedimentation of watercourse and water bodies shall be minimized. The following measures shall be included, where applicable, as part of project review and approval.
1. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
 2. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
 3. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
 4. Disturbed soils shall be stabilized as quickly as practical. Temporary mulch will be placed on all disturbed areas where seeding or other construction or stabilization activities will not take place for over 14 consecutive days.
 5. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
 6. The permanent (final) vegetation and structural erosion control measures shall be installed in the time periods contained in the erosion and sediment control plan.
 7. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
 8. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense.
 9. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line.
 10. The standards set forth in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices (March 1991 and as amended) shall be employed.

- X. Hazardous, Special, and Radioactive Materials:** The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies and provide documentation that they are in compliance with state or federal standards.

No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. All materials must be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

- Y. Noise:** When the Planning Board determines, based on the project's characteristics and location, that noise will be a concern the following standards shall apply:

1. The proposed development shall not raise noise levels to the extent that abutting and or nearby residents are adversely affected. The Planning Board shall use the standards contained in **Chapter 375. 10. C., Sound level limits**, of the Maine Department of Environmental Protection Rules and as amended to make a determination of "adversely affected."
2. Uses and activities identified in **Chapter 375 10C (5)** in the above mentioned rules shall be exempt from the sound-pressure level regulations.

- Z. Odors:** The proposed project will not produce offensive or harmful odors perceptible beyond the lot lines, either at ground level or habitable elevation.

AA. The proposed project will not generate any nuisance, waste discharge, vibration, smoke, dust, heat, glare or excessive light, radiation, fumes or electrical interference detectable to the normal senses or which interferes with normal radio or television reception or the use of cellular telephones or satellite reception of any kind or the use of Ham Radio (amateur radio communications), or cause any other nuisances which extend beyond the limits of the subject property.

Section 8. Special Provisions

A. Projects Located on Sand and Gravel Aquifers

The Board shall utilize the following standards in addition to the other criteria contained in this Section in reviewing projects located on a mapped sand and gravel aquifer.

1. The boundaries of the sand and gravel aquifers shall be delineated on the Sand and Gravel Aquifer Maps prepared by the Maine Geological Survey labeled Map 15 dated 1983. When boundaries of the sand and gravel aquifer are disputed due to the lack of sufficient detail on the available maps, the applicant, or applicant's agent may submit hydrological evidence prepared by a geologist, certified in the State of Maine, which identifies actual field locations of the aquifer boundaries within the project area.
2. No use shall dispose of other than normal domestic waste water on site without approval of the Department of Environmental Protection. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules, and ordinances.
3. Indoor use or storage facilities where hazardous materials, wastes, or other liquids with the potential to threaten groundwater quality are used or stored shall be provided with containment

which is impervious to the material being stored and have the capacity to contain 10 percent of the volume of the containers or 110 percent of the volume of the largest container, whichever is larger.

4. Petroleum and other hazardous material storage and transfer. A Spill Prevention and Countermeasure Plan meeting the standards of the Maine Department of Environmental Protection shall be submitted.
5. In those areas identified as sand and gravel aquifers as defined in subsection A above, the following newly established land uses are prohibited unless the Board finds that no discharges will occur such that water quality at the property line will fall below State Drinking Water Standards and all provisions of this Ordinance will be met.

- | | |
|--|---|
| 1. dry cleaners | 12. chemical reclamation facilities |
| 2. photo processors | 13. industrial waste disposal/impoundment areas |
| 3. printers | 14. automobile graveyards |
| 4. auto washes | 15. chemical manufacturing |
| 5. Laundromats | 16. pesticide/herbicide stores |
| 6. meat packers/slaughter houses | 17. metal platters |
| 7. salt piles/sand-salt piles | 18. concrete/asphalt/coal companies |
| 8. wood preservers | 19. crematorium |
| 9. leather tanning | 20. cemetery |
| 10. electrical equipment manufacturers | |
| 11. plastic/fiberglass fabricating | |

Section 9. Post Approval Activities

A. Incorporation Of Approved Plan: One copy of the approved site plan must be included with the application for the Building Notification Certificate for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by the Code Enforcement Officer to address field conditions.

B. Performance Bond

1. Performance Bond Required

Prior to approval, the Board shall require that the applicant file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Sumner, or a performance bond running to the Town of Sumner and issued by a surety company acceptable to the Town of Sumner. The conditions and amount of such certified check or performance bond shall be determined by the Board with the advice of the various municipal officers concerned. In addition, prior to approval of any commercial telecommunications tower or wind power generating structure 100 feet in height or higher, the Board shall require the developer or installer to file with the Town a bond in an amount adequate to defray the costs of removing the facility together with any structures or equipment appurtenant thereto and of returning the site to its condition prior to such installation. This performance bond shall remain on file with the Town and shall not be released unless the installation has been decommissioned, dismantled and removed.

2. Extension

The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period

when the applicant can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

3. Release

Before an applicant may be released from any obligation requiring a guarantee of performance, the Board will require certification from the various municipal officers (Inspecting Official, Selectmen, Road Commissioner, Fire Chief) to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).

C. Changes and Amends to Approvals

1. Minor Changes to Approved Project Plan

Minor changes to approved projects necessary to address field conditions may be approved by the Planning Board provided that such change does not affect the compliance with the standards of this Ordinance, conditions of approval or alter the essential nature of the project. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

2. Amendments to Approved Project Plan

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to review and approval by the Planning Board.

Section 10. Enforcement

A. Notice of Violation

The Code Enforcement Officer shall act in all cases of violations of this Ordinance by notifying, in writing, the owner or lessor of the project and the Selectmen of the nature of the violation and the correction of the same, if possible. Notification shall be deemed to have been made when sent to the owner or lessor by certified mail.

B. Legal Action

The Selectmen are charged with the prosecution for all violations of the provisions of the Ordinance. In cases where such notices referred to in **Section 10. A.** above, are not promptly complied with after receipt of said notices, the Selectmen shall make such complaints to the courts as, in their judgment, are proper, or may institute such actions or proceedings at law or in equity as are proper to restrain, correct, remove or punish such violations.

C. Fines

Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof, shall be fined not less than \$100.00 nor more than \$2,500.00 as provided by State law **Title 30-A MRSA Section 4452**. Each day on which the violation shall continue shall constitute a separate offense.

Section 11. Expiration of Approval

All Site Plan approvals shall expire two (2) years after the date of approval unless substantial construction there under has commenced. If work is not fully completed within three (3) years from the date of approval, the approval lapses and a new application, with all required fees and submissions, must be made and approved. The Board may grant up to a twelve (12) month extension to these time periods upon request by the applicant and a showing that the time periods cannot be complied with due to circumstances beyond the control of the applicant.

Section 12. Appeals

An appeal may be taken within thirty (30) days from the Planning Board's final decision by any party to the Superior Court in accordance with **Rule 80B of the Maine Rules of Civil Procedure**.

Section 13. Authority

- A. This Ordinance is adopted pursuant to **Article VIII Part 2 Section 1 of the Maine Constitution and Title 30-A M.R.S.A. Section 3001** (Home Rule).
- B. This Ordinance shall be known as the "Town of Sumner, Maine Site Plan Review Ordinance."

Section 14. Validity and Separability, Conflict with other Ordinances and Effective Date

- A. 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. Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.
- C. The effective date of this Ordinance is _____, the date of its adoption at a town meeting.

Section 15. Amendments

This Ordinance may be amended by a majority vote of the annual or special town meeting. Amendments may be initiated by a majority vote of the Planning Board or by request of the Board of Selectmen to the Board or on a written petition of a number of voters equal to at least 10% of the number of votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment. Fees can be changed by the Board of Selectmen or a Town Meeting.

Section 16. Definitions

Agricultural Land Management Practices: Those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

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

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

Building: Any structure having a roof or partial roof supported by columns or walls used for shelter or enclosure of person, animals, goods or property of any kind.

Campground: A tract or parcel of land intended for the placement of recreational vehicles, tents and utility and service buildings.

Change in Use: The conversion of a building or parcel of land from one type of nonresidential use to any other type of nonresidential use. By way of example, the change from retail to office or retail to a restaurant.

Commercial: Connected with the buying or selling of goods or services or the provision of facilities for a fee,

exclusive of rental or residential buildings and/or dwelling units.

Direct Watershed of Lake or Pond: Any land area that contributes stormwater runoff either by direct surface water or subsurface flow to a great pond without such runoff traveling through another great pond.

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

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

Full-time equivalent (FTE): a way to measure a worker's involvement in a project. An FTE of 1.0 means that the person is equivalent to a full-time worker, while an FTE of 0.5 signals that the worker is only half-time.

Forest Management Activities: Includes timber cruising and other forest resource evaluation activities, pesticide application, timber stand improvement, pruning, timber harvesting, and other forest harvesting, regeneration of forest stands, and other similar associated activities, but not the construction, creation, or maintenance of land management roads.

Fresh Water Wetland: Means fresh water swamps, marshes, bogs and similar areas which are:

1. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
2. Not considered part of great pond, river, stream or brook. These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

Historic Building/Site: Building and sites on the National Register of Historic Places or identified as of historic importance in the Sumner Comprehensive Plan.

Home Occupation: An occupation or profession which-results in a product or service and is conducted in whole or in part in a residential structure, accessory structure to a residential use or property

Impervious Surface: The area of land covered by buildings, structures and paved and gravel surfaces.

Industrial: Connected with the assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of minerals.

Institutional: A building devoted to some public, governmental, education, charitable, medical or similar purpose.

Mineral Extraction: Any operation which within any twelve (12) successive month period removes more than 5,000 cubic yards of soil, topsoil, loam, sand, gravel, clay, peat, or other like material from its natural location, and to transport the product removed away from the extraction site.

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

Public Improvement: Roads, drainage and stormwater systems, common water and sewer systems whether public or private.

Radiation: The emission of atomic particles or rays by the nucleus of an atom.

Retail: Connected with the sale of goods to the ultimate consumer for direct use and consumption, and not for trade.

Sign: Any device, fixture, placard or structure that uses any color, form, graph, illumination, symbol, or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Structure: Anything constructed, erected or placed on the ground which is permanent, temporary, or mobile. Structure(s) include, but are not limited to: building(s), mobile homes, recreational vehicles, and processing facilities. Boundary walls, fences and flag poles are not considered structures.

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

Substantial Enlargement: An expansion by 20 percent or greater feet of new gross floor area or 20 percent or greater of new impervious surface area provided such expansion involves at least 500 square feet within any five-year period.

Use: Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied; also any activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.