

# TOWN OF WINDSOR, MAINE

## SITE PLAN REVIEW ORDINANCE

**ENACTED:**            **Adopted at Special Town Meeting, November 9, 2023**

**CERTIFIED BY:** \_\_\_\_\_  
                                 **Name**

\_\_\_\_\_  
**Title**

**Affix Seal**

SITE PLAN REVIEW ORDINANCE  
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**ARTICLE I - TITLE & PURPOSE**

**Sect. 1 Title**

This Ordinance shall be known and may be cited as the Site Plan Review Ordinance of the Town of Windsor, Maine and will be referred to herein as "this Ordinance."

**Sect. 2 Purpose**

It is an overarching principle of this Ordinance that Landowners have the right to establish or expand all of the uses cited herein. Thus, it is the purpose to establish the "how" of such establishment or expansion.

The purpose of this Ordinance is to establish minimum standards, and municipal procedures intended to regulate certain new: developments, expansions, or changes of use. These standards and procedures are intended to protect the public health, safety, and general welfare; and to minimize the adverse impacts to the town, abutting property owners, citizens of the town, the environment, and natural resources by preserving and protecting:

- A. Surface and groundwater quality and quantity,
- B. Air quality,
- C. The value of property and its quiet enjoyment,
- D. Compatibility with established uses in the Town and immediate area,
- E. The environment,
- F. Open space, historic resources, and scenic vistas,
- G. Traffic, public safety, or the resources of the Town's First Responders.

**ARTICLE II - AUTHORITY, APPLICABILITY & ADMINISTRATION****Sect. 1 Authority**

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article 8, Part 2 of the Maine Constitution and under the authority granted to the town by the statutes of the State of Maine, Title 30-A M.R.S.A., Section 3001 and 3105(2), and Title 38 M.R.S.A. Sections 490-DD and 490-I.

**Sect. 2 Administration**

The provisions of this Ordinance shall be administered by the Town of Windsor's Planning Board and enforced by the Town of Windsor's Town Manager and Board of Selectmen, who will establish, after notice and hearing, and, from time to time, revise a fee schedule for the various applications and fees required by this Ordinance.

**Sect. 3 Effective Date**

This Ordinance shall be effective upon its adoption by vote of the eligible voters of the Town of Windsor, Maine in town meeting.

**Sect. 4 Applicability**

- A. This Ordinance shall apply to development or expansion of any of the following uses or activities:
  - a. Multifamily dwellings with four (4) or more units,

- b. Hotels or motels with more than three (3) rooms or units,
- c. Public or private educational facilities,
- d. Places of worship, and other places operated or managed by a recognized religious group,
- e. Municipal or government facilities,
- f. Cemeteries,
- g. Restaurants, bars of more than one hundred (100) sq. ft.,
- h. Mercantile or Business uses of more than one hundred (100) sq. ft.,
- i. Office uses of more than one hundred (100) sq. ft.
- j. Fuel stations with more than two (2) pumps or Electric Vehicle charging stations or three (3) vehicles either being repaired, having completed repairs or for sale,
- k. Camps or campgrounds,
- l. Commercial Mineral Extraction Operations of more than one (1) acre,
- m. Utility scale solar electrical energy production facilities,
- n. Private commercial outdoor recreation developments of more than 2 acres,
- o. Power Transmission Lines  
Transmission lines constructed within the Town of Windsor must be run underground.  
Exceptions:
  - 1. Unless transmission line voltage is 34.5KV or less,
  - 2. Unless installed within existing transmission rights-of-way, or
  - 3. Unless otherwise approved by the Town of Windsor Planning Board.
- p. Wind Energy Conversion Systems

B. For Uses listed in Sect. 4 - A. this Ordinance shall also apply any Change of Use, from an established use to a new use.

C. This Ordinance shall NOT apply to any of the following:

- a. Single family, duplex, and multifamily dwellings with three (3) or less units.
- b. Agricultural or farm uses and their accessory uses.
- c. Forestry, logging, and sawmills.
- d. Other activities or uses NOT listed as subject to this Ordinance,

### **ARTICLE III – APPLICATION PROCEDURE AND STANDARDS**

#### **Sect. 1 Procedure:**

##### **A. Application Requirements**

The applicant shall submit the Application fee, (See separate fee which is set by the Select Board and reviewed annually and amended as needed.) including any technical review fees and ten copies of the following to the Planning Board:

- 1. A completed application form, (The Planning Board may require additional information cited on the *Planning Board Additional Information and Approval Considerations* checklist.)
- 2. A copy of the deeds or lease agreements, if the operator is not the owner, or other form of evidence of right to submit said application,
- 3. An Existing Conditions Site Plan, prepared by a licensed design professional, showing the following:

- a. Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic) and the name of the preparer.
  - b. Boundaries of land showing lot lines, total acreage, existing structures on property and features of the property.
  - c. Abutting properties, buildings, and roads.
  - d. An aerial photograph of the site and immediate area.
4. A Plan of proposed development and usage, prepared by a licensed design professional, including:
  - a. Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic), and the name of the preparer.
  - b. All buildings and site development, with sizes, areas, and dimensions.
  - c. Project phasing and schedule.
5. At the Applicants expense, the Planning Board may require additional studies, drawings, plans, documentation, or technical review, such as:
  - a. Geologic or hydrologic investigations,
  - b. Wetlands, Shorelands, or other environmental studies,
  - c. Traffic impact analysis, and
  - d. Other such studies the Planning Board reasonably requires.
6. Waivers:
  - a. The Planning Board, upon the written request of an applicant stating the reasons therefore, with written findings of fact that there are special circumstances may waive any of the application requirements of this Ordinance; providing the public health, safety and welfare are protected, and the waivers do not have the effect of nullifying this Ordinance.
  - b. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review.

**B. Application Process:**

1. The Town of Windsor shall provide the *Site Plan Review Application Form* and *Fee Schedule*.
2. As feasible, the Applicant is encouraged to have an initial and informal meeting with the Town Manager or designee. When the Town Manager or designee believes the application is reasonably complete, the Planning Board Chairperson shall be asked to include the application on the next available Planning Board meeting agenda.
3. At said meeting, the Planning Board shall provide the Applicant an opportunity to make a presentation, the public to speak, and for Planning Board Members to ask questions. The Planning Board shall determine, by a vote of its members:
  - a. The completeness of the application, including Waivers, if any and additional studies or information, if any; and
  - b. If a final approval can be made at said meeting, or if an additional Planning Board meeting is needed and if a Public Hearing is needed.
4. If the Planning Board determines that it can act at the first meeting, then it may "Approve" the application as submitted, "Approve with Conditions," or for good and reasonable cause, "Deny" the application. Reasons for denial shall be recorded as part

- of the Minutes.
5. If an additional Planning Board meeting or Public Hearing is needed and any additional materials or fees have been submitted, the Planning Board Chairperson shall schedule the meeting or Public Hearing and then the Town Manager or designee shall cause the appropriate mailings and advertisements to happen, as required.
  6. A Planning Board Public Hearing is required for the following:
    - a. Mineral Extraction Operations,
    - b. Developments or expansions of Town wide impact,
    - c. Developments or expansions subject to Performance Guarantees.
  7. For any development or expansion for which a Performance Guarantee is sought, the Windsor Planning Board shall hold a Public Hearing to: "Approve," "Approve with Amendments," or for good and reasonable cause, "Deny" the application. The Application, or the Performance Guarantees may be approved or denied individually.
  8. Recordable documents representing the determination, including terms and conditions, shall be signed by a majority of the Planning Board.
  9. Work may not start until all documents are recorded with the County Clerk, all fees are paid, and Financial Guarantees are finalized. The Applicant shall have one year from Planning Board approval to begin substantial construction.
  10. No modifications or amendments to the Final Approved plan shall be made without re-approval through a process consistent with the original approval process.
  11. If a Public Hearing is determined to be required by the Planning Board, the applicant shall notify by certified mail all abutters as defined in this Ordinance.

## **ARTICLE IV - PERFORMANCE GUARANTEES**

### **Sect. 1 Types and Contents of Guarantees**

Accompanying application for Final Plan of new or expansion of existing projects, one of the following performance guarantees must be submitted for an amount adequate to cover the total cost of all required reclamation. It should contain the reclamation schedule, with date after which the approved operator or owner will be in default, with estimates for each plan of reclamation, including inspection costs. The amount shall be determined by the Select Board after consultation, as appropriate, with the Planning Board, Road Commissioner, Town Attorney, or other appropriate consultants.

#### **A. Escrow Account**

A certified check, savings account, or CD, for which the municipality must be named as sole owner, and who may withdraw funds only when the reclamation does not follow the agreed-upon plan. In addition, the principal and any earned interest shall be returned to the operator when the reclamation is completed, unless the municipality has found it necessary to draw on the account. In the latter case, the residual from the account, if any, and its earned interest, will be returned to the developer proportionately.

#### **B. Performance Bond**

A bond, payable to the Town, issued by a surety company approved by the Select Board, with details of its condition, and with methods of release for the specific project clearly

delineated.

**C. Letter of Credit**

A letter of credit from a financial institution approved by the Select Board. This credit must be irrevocable and be sufficient to handle reclamation of the specific project, and from which the Town may draw if reclamation does not follow the agreed-upon plan.

**Sect. 2 Phased Guarantees**

The Planning Board may approve Phased Performance Guarantees when a development is approved in separate distinct phases.

**Sect. 3 Release of Guarantees**

Prior to release of any part of the Performance Guarantee, the Select Board shall determine, after consultation with a certified engineer or other consultant(s), that the reclamation meets the requirements of that portion of the project requested.

**Sect. 4 Default**

If, upon inspection by the Town Manager, or designee, it is determined that the development has not followed the previously approved plan, he or she shall report to the Select Board, Planning Board, and approved operator or owner. The approved operator or owner shall have thirty (30) days, unless otherwise notified, to remedy any deficiencies, or be subject to the penalties described in Article V, Sect. 3 of this Ordinance.

**ARTICLE V – ENFORCEMENT**

**Sect. 1 Enforcement**

- A. Enforcement procedures and legal action will be in conformity with those of the approved Final Plan, Ordinances of the Town of Windsor, and applicable Maine State Law,
- B. If, at any time, it is ascertained that a violation of this Ordinance constitutes a danger to the health, safety, or welfare of any person, property or environment of the Town of Windsor, the town may initiate immediate proceedings to abate or correct such violation.

**Sect. 2 Right of Entry onto Land**

The Town Manager or designee shall have the right of entry onto any project site at reasonable times and after reasonable notice. If the operator, or its employee or agent, interferes with an inspection by the Town Manager or designee, it shall be a violation of the Ordinance and the Town Manager or designee may seek an administrative search warrant pursuant to court rule 80E, and the operator shall pay the town a civil penalty in an amount determined by the Select Board plus any legal fees incurred in obtaining that warrant.

**Sect. 3 Penalties**

Any person, firm, corporation, or other entity being the owner, or having control or responsibility for any project, who violates the terms or conditions of any Plan, approved by

the Planning Board, the Select Board, or who proceeds without approval, shall be deemed a nuisance, and shall be subject to a civil penalty, expert witness fees, costs of court, and legal fees due and payable to the Town of Windsor, in an amount determined by the court in accordance with the penalty provisions of 30-A M.R.S.A. Section 4452.

Any person, firm, corporation, or other entity being the owner, or having control or responsibility for any project, who violates the terms or conditions of any Plan, approved by the Planning Board, the Select Board, or who proceeds without approval, shall be deemed a nuisance, shall be subject to a fine of one hundred dollars (\$100) per day from the specified date for correction contained in the notification of non-compliance. This penalty shall not be deemed to be exclusive of any other appropriate legal action. Each day in which a violation of this Ordinance continues shall constitute a separate offense under this section.

## **ARTICLE VI – APPEALS AND VARIANCES**

### **A. Administrative Appeals and Variances**

Variances from the requirements of this Ordinance may only be granted by the Windsor Board of Appeals. All administrative appeals and variances shall follow the procedure outlined in Maine State law.

### **B. Appeal to Superior Court**

Any aggrieved party having proper standing may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Kennebec County, within 45 days of a written decision in accordance with Maine State Law.

## **ARTICLE VII – AMENDMENTS:**

This Ordinance may be amended in the manner as other Ordinances in the Town of Windsor.

## **ARTICLE VIII - SEVERABILITY AND CONFLICT**

### **Sect. 1 Severability**

Should any section of this Ordinance be declared, by court of competent jurisdiction, to be invalid for any reason, such decision shall not invalidate any other section or provision of this Ordinance.

### **Sect. 2 Conflict with other Ordinances**

Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully adopted rule, regulation, or ordinance, imposing the most restrictive or higher standard shall govern.

## **ARTICLE IX - DEFINITIONS:**

**Abutter:** Any lot which is physically contiguous with the lot in question or within 500 feet



horizontal distance of the lot line, even if only a point and any lot which is located directly across the public or private street from the lot in question.

**Ambient Sound:** The existing sounds at a given location come from all sources, both near and far.

**Aquifer:** An underground bed or stratum of earth, gravel or porous stone that contains water.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Body of Water:** Shall include the following:

- A. Pond or Lake - any inland impoundment, natural or man-made, which collects and stores surface water.
- B. Stream or River - a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

**Environmentally Sensitive Areas:** Wetlands, swamps, wildlife habitat areas delineated by the Dept. of Inland Fisheries and Wildlife (IF&W), prime agricultural areas, areas with steep slopes, areas with poorly drained soils, and flood plain areas (subject to a 100-year flood). Also, to include Protected Natural Resources.

**Ground water:** The water beneath the surface of the ground, consisting largely of surface water that has seeped down; the source of water in springs and wells.

**Level of Service:** (LOS) is a quantitative or qualitative measure of traffic flow for roadways and intersections. The levels range in six grades: A, B, C, D, E and F. LOS "A" indicates free flow with low traffic density and minimal delays. LOS "F" indicates traffic volumes that exceed capacity with very long delays.

**Natural Buffer Strip:** An undisturbed area or belt of land that is covered with trees or other vegetation.

**Normal High-Water Line:** That line, which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

**Performance Record:** The performance record to be reviewed must include any prior violation, suspension, or revocation of an approval issued under this ordinance, or similar approval or permit issued by any other agency of government, and any other environmental enforcement history.

**Private Water Supply:** A surface water supply, a dug well, a spring or a hole drilled, driven, or bored into the earth that is used to extract drinking water for human consumption and that is not part of a public water supply.

**Protected Locations:** Any location, accessible by foot, on a parcel of land containing a residence or planned residence or approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital, or nursing home near the development site at the time an application is submitted. For complete definition see: MDEP Chapter 375.10.G.16., incorporated herein by reference.

Note: Complete definition spells out what constitutes a “planned” residence: When the owner of the parcel of land has received all applicable building and land use permits and the time under such permits has not expired, same for subdivisions.

**Protected Natural Resource:** Wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, bog, marsh, rivers, streams, or brooks, as the terms are defined in applicable state law.

**Public Water Supply:** Any publicly or privately-owned system of pipes or other constructed conveyances, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption, if such system has at least 15 service connections or serves at least 25 individuals daily at least 60 days out of the year or bottles water for sale.

**Seasonal High-Water Table:** That part of the year when the water table is at its highest level.

**Setback:** The horizontal distance from a lot line or referred location to the nearest part of a structure or activity.

**Setback from Water:** The horizontal distance from the normal high-water mark to the nearest part of a structure or activity.

**Road:** Public and private owned ways such as alleys, avenues, boulevards, highways, roads, streets, lanes, and other rights of way, as well as areas on mineral extraction activity plans designated as rights of way.

**Significant Wildlife Habitat:** Defined under Maine’s Natural Resources Protection Act (NRPA), which is administered by the Maine Department of Environmental Protection (DEP).

**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. The term includes structures temporarily or permanently located, such as decks, raised walkways, handicapped access ramps, and satellite dishes.

**Surface Water:** Any water flowing on the surface, either channelized or by sheet flow

including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog, or other contiguous lowland where water is periodically ponded on the surface.

**Waiver:** A relaxation of the terms of the Ordinance where such a waiver would not be contrary to the public interest, where owing to existing conditions or operations, a literal enforcement of this Ordinance would result in an unnecessary or undue hardship, and where the intent of the Ordinance or item being waived can be met in some other appropriate manner, as determined by the Planning Board.

**Water Supply:** See Private Water Supply and Public Water Supply.

**Water Table:** The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

\*Fees and Incentives to be adopted by the Select Board and reviewed on an annual basis.