

Site Plan Review Ordinance

Town of Montville, Maine

Approved
March 31, 2001

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ARTICLE II - TITLE & PURPOSE

§1 Title

This ordinance shall be known and may be cited as the Site Plan Review Ordinance of the Town of Montville, Maine.

§2 Purpose

The purposes of this Ordinance are to promote the health, welfare and safety of the residents of the Town of Montville, Maine; to provide a level of municipal review for commercial projects that could potentially impact the community; to balance the rights of landowners to use their land while minimizing adverse impacts on adjacent properties; to protect the town's natural resources; to reduce the off-site effects of development, thereby controlling the costs of maintaining or improving municipal services; and to promote a fair, thorough, and expedient review process for proposed activities subject to this ordinance.

ARTICLE III - ADMINISTRATION AND APPLICABILITY

§1 Administration

This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers. The Planning Board shall act in this capacity in the absence of a Code Enforcement Officer.

§2 Approval Required

A person or entity with right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities on the parcel:

- A. New development of the following: commercial uses, retail uses, industrial uses, the establishment of a new nonresidential use even if no buildings or structures are proposed, institutional uses and multiple family dwelling units consisting of three or more attached dwelling units and their accessory uses and structures, or
- B. Substantial expansion of the aforementioned uses;
- C. Changing the use of an existing building or structure from a residential to a commercial or other non-residential use;
- D. Changing of a non-residential use from non-industrial to industrial.

§3 Approval Not Required

Site plan approval is not required for the following:

- A. This ordinance does not apply to:
 1. detached single and two family dwelling units,
 2. agricultural land use practices including associated retail and production facilities,
 3. horticultural land use practices including associated retail and production facilities,
 4. forest management practices including associated retail and production facilities,
 5. municipal projects, or
 6. home occupations as defined herein.
- B. Nothing in this ordinance shall be construed to prevent ordinary repair, maintenance or replacement of any part of the building or landscaping which does not involve a substantial change.
- C. Minimal Impact Developments as defined in Article III, §2 below.

ARTICLE IV – CLASSIFICATION OF PROJECTS

§1 Project Classes

The Planning Board shall classify each project as one of three classifications: Minimal Impact Development, Minor Development, or Major development.

§2 Minimal Impact development

A Minimal Development shall include those projects involving the construction or addition of less than 300 square feet of gross nonresidential floor area, and/or projects involving the installation of less than 300 square feet of impervious surfaces and will not require site plan review.

.. §3 Minor Development

A Minor Development shall include those projects involving:

- A. The construction, enlargement or expansion of at least 300 square feet, but less than 2,500 square feet, of gross nonresidential floor area, and/or
- B. Those projects involving the installation of at least 300 square feet, but less than 2,500 square feet, of impervious surfaces, or
- C. Those projects involving the conversion of existing buildings or structures from residential to non-residential use as outlined in the provisions of this Ordinance and will require site plan approval.

§4 Major Developments

A Major Development shall include those projects involving:

- A. The construction, enlargement or expansion of 2,500 or more square feet of gross nonresidential floor area, and/or
- B. Projects involving the installation of 2,500 or more square feet of impervious surfaces, or
- C. Projects involving the establishment of a campground, communications tower, or other commercial project not classified as a Minimal Impact or Minor Development and will require site plan approval.

ARTICLE V – INTERPRETATION OF THE ORDINANCE

The Code Enforcement Officer (CEO) shall be responsible for administering the provisions of this ordinance including interpreting the provisions hereof.

Any person, who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal. If the Board finds that the CEO erred in his/her interpretation of the ordinance, it shall modify or reverse the action accordingly.

ARTICLE VI - REVIEW AND APPROVAL AUTHORITY

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Maine Constitution and Title 30-A M.R.S.A. §3001. This Ordinance is also founded upon and pursuant to the Town of Montville, Comprehensive Plan. In considering site plans under this provision, the Montville Planning Board may act to approve, disapprove or approve with conditions, any projects governed by the Ordinance.

ARTICLE VII – REVIEW PROCEDURES

§1 Pre-Application Procedures

The Planning Board shall use the following procedures in reviewing applications for site plan review. Prior to submitting a formal application, the applicant or his/her representative may request a pre-application conference with the Planning Board. A pre-application conference is strongly advised. 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 on the substance of the plan shall be made at the pre-application conference.

§2 Purpose of Pre-Application

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. Allow the applicant to understand the development review process and required submissions,
- C. Identify issues that need to be addressed in future submissions,
- D. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities, and
- E. Determine if a site inspection, in accordance with Article VI, §4 is deemed necessary to resolve any requests for waivers and variations from the submission requirements.

§3 Information Required

There are no formal submission requirements for a pre-application conference. However, the applicant should be prepared to show a simple Sketch Plan and discuss the following with the Board:

- A. The proposed site, including its location, size, and general characteristics,
- B. The nature of the proposed use and potential development,
- C. Any issues or questions about existing municipal regulations and their applicability to the project,
- D. Any requests for waivers from the submission requirements.

§4 Formal Application Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Chair of the Planning Board.

- A. At the first meeting in which the application is considered, the Planning Board shall give a dated receipt to the applicant or to their appointed representative who shall be in attendance. The applicant or their representative shall notify, by certified return receipt mail, all property owners within one thousand (1000) feet of the parcel on which the proposed development is located. Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Road Commissioner, Plumbing Inspector, Code Enforcement Officer, the Town Clerk for public posting, and other interested parties.
- B. Within forty-five (45) days of the receipt of a formal 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, specify the additional materials required to make the application complete, and advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
- C. As soon as the Board determines that the application is complete, the Board shall notify the applicant in writing of this finding, meet the notification requirements of subsection (E) below, and place the item on the agenda for substantive review within forty-five (45) days of this finding.
- D. The Planning Board shall determine whether to hold a public hearing on the Site Plan Review application and schedule the hearing within 45 days of receipt of the completed application.
- E. The Planning Board shall give written notice of the date, time, and place of the meeting at which the application will be considered to the applicant and all persons who received the written notice under subsection (A).
- F. The Planning Board and/or Code Enforcement Officer 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 take final action on the application as specified in subsection (C) may be extended. This extension shall not exceed forty-five (45) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (A).
- G. The Planning Board shall take final action on said application within forty-five (45) days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.
- H. 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 officials who received notice under subsection (A), and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.
- I. All time limits provided for in this section may be extended by mutual agreement of the applicant and Planning Board.

§5 Final Approval and Filing

Upon completion of the requirements outlined in this Ordinance and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval. The site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer. The signed plan, with any agreed upon conditions of approval attached, must be recorded by the applicant in the Waldo County Registry of Deeds within forty-five (45) days of the vote to approve the plan. The Planning Board, by vote, may extend the filing period for good cause.

ARTICLE VIII – PERFORMANCE GUARANTEES AND FEES

§1 Performance Guarantees

With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town of Montville or a savings account or certificate of deposit naming the Town of Montville as owner for the establishment of an escrow account, or
- B. A performance bond payable to the Town of Montville issued by a surety company licensed to do business in the State of Maine and approved by the Selectmen, or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which the Town may draw if construction is inadequate, approved by the Selectmen.

The Planning Board, with the advice of the Code Enforcement Officer, Road Commissioner, Selectmen, and/or Town Attorney, shall determine the conditions and amount of the performance guarantee.

§2 Application Fee

An application fee must accompany an application for site plan review. This fee is intended to cover the cost of the municipality's administrative processing of the application, including notification, advertising, mailings, and similar costs. The fee, \$50 for minor projects and \$100 for major projects, shall not be refundable. This application fee must be paid to the municipality and evidence of payment of the fee must be included with the application.

§3 Technical Review Fee

In addition to the application fee, the applicant for site plan review must also pay a technical review fee to defray the municipality's legal and technical costs of the application review. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board.

- A. This fee must be paid to the municipality and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts.
- B. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.

- C. The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees.
- D. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

§4 Establishment of Fees ✓

The Selectmen may, from time to time and after consultation with the Planning Board, establish the appropriate application fees and technical review fees following posting of the proposed schedule of fees and public hearing.

ARTICLE IX - SUBMISSION REQUIREMENTS

§1 Waivers

Applications for site plan review must be submitted on application forms provided by the town of Montville. The complete application forms, evidence of payment of the required fees, and the required plans and related information must be submitted to the Chair of the Planning Board. The submission must contain at least the following exhibits and information unless specifically waived in writing. The Planning Board may waive any of the submission requirements based upon a written request of the applicant. Such request must be made at the time of the pre-application conference or at the initial review of the application if no pre-application conference is held. A waiver of any submission requirement may be granted only if the Board makes a written finding that the information is not required to determine compliance with the standards.

§2 Information Required -

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

- A. A fully executed and signed copy of the application for site plan review.
- B. Evidence of payment of the application and technical review fees.
- C. Eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below. The written materials must be contained in a bound report. The maps or drawings 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 one hundred (100) feet to the inch for that portion of the tract of land being proposed for development: ✓

§3 General Information

The following general information must be included in all applications:

- A. Record owner's name, address and phone number and applicant's name, address and phone number if different.
- B. The location of all required building setbacks, yards, and buffers.
- C. Names and addresses of all property owners within one thousand (1000) feet of any and all property boundaries.
- D. Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
- E. 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.
- F. The tax map(s) and lot number(s) of the parcel(s) on which the project is located.
- G. A copy of the deed to the property, an option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- H. The name, registration numbers, and seal of the person who prepared the plan, if applicable.

The following general information must be included with applications for Major Developments only:

- A. Evidence of the applicant's technical and financial capability to carry out the project as proposed.

§4 Existing Conditions

The following existing conditions must be included in all applications:

- A. Zoning classification(s), including overlay and/or sub-districts, of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or sub-districts or abuts a different district.
- B. The bearings and length of all property lines of the property to be developed and the source of this information. The Planning Board may waive this requirement of a boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
- C. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, underground tanks or installations, power and telephone lines, poles on the property to be developed, or 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.
- D. Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- E. The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- F. Location of intersecting roads or driveways within two hundred (200) feet of the site.
- G. 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, 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.

- H. The direction of existing surface water drainage across the site.
- I. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- J. The location and description of the nearest water supply for fire protection.
- K. Upon receipt of data from the applicant, a licensed plumbing inspector will describe the existing subsurface wastewater disposal system and determine the systems viability.

The following additional existing conditions must be included with Major Development applications:

- A. The site elevation shall be delineated on the plan if any portion of the property is in the 100-year flood plain and this impacts any proposed building or areas of fill.
- B. A general description of the soils in the area of the proposed development or expansion. This information can be taken from the Soil Survey of Waldo County or provided by a certified soil scientist.
- C. The location, front view, dimensions, and lighting of existing signs.
- D. The location, dimensions and ground floor elevation of all existing buildings on the site.

§5 Proposed Development Activity

The following proposed development activities must be included in all applications:

- A. Estimated demand for water supply and sewage disposal together with the location and dimensions of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed.
- B. The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- C. Descriptions by type and amount, as well as provisions for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities.
- D. 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.
- E. Proposed landscaping and buffering.
- F. The location, dimensions, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- G. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- H. The size, location, direction, and intensity of illumination and method of installation of all major outdoor lighting apparatus and signs.
- I. The location of all utilities, including fire protection systems.
- J. A general description of the proposed use or activity.
- K. An estimate of the peak hour and daily traffic to be generated by the project.
- L. The amount and type of any raw, finished, or waste materials to be stored outside of roofed buildings, including their physical and chemical properties if appropriate.
- M. Copies of applicable State approvals and permits. The Board may approve development plans subject to the issuance of specified State approvals and permits where it

determines that it is not feasible for the applicant to obtain them at the time of development review.

- N. A schedule of construction including anticipated beginning and completion dates.

The following proposed development activities must be included with Major Development applications:

- A. Stormwater calculations, erosion and sedimentation control measures, and water quality and/or phosphorous export management provisions, if the project requires a stormwater 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.

§6 Approval Block

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

ARTICLE X - APPROVAL STANDARDS AND CRITERIA

§1 Approval Standards

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 application shall be approved unless the Planning Board determines that 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.

§2 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.

§3 Adequacy of Road System

Vehicular access to the site must be on roads that have adequate capacity to accommodate the additional traffic generated by the development.

- A. For developments that generate one hundred (100) or more peak hour trips (based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers), intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of D or better prior to the development, must function at a minimum at Level of Service D after development.

- B. If any such intersection is functioning at a Level of Service E or lower prior to the development, the project must not reduce the current level of service.
- C. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.
- D. A development not meeting this requirement may be approved if the applicant demonstrates that:
 1. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
 2. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

§4 Access into the Site

Vehicular access to and from the development must be safe, convenient and include:

- A. Any driveway or proposed street must be designed so as to provide at least the minimum sight distance according to the Maine Department of Transportation standards.
- B. Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- C. The grade of any proposed drive or street must be not more than $\pm 3\%$ for a minimum of two (2) car lengths, or forty (40) feet from the intersection.
- D. The intersection of any access/egress drive or proposed street must function at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty-four (24) hour period; or (b) at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- E. Where a lot has frontage on two (2) or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrians hazards. Access from other streets may be allowed if it is safe.
- F. Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing traffic controls within public streets.
- G. Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- H. The following criteria must be used to limit the number of driveways serving a proposed project:
 1. No use, which generates less than one hundred (100) vehicle trips per day, shall have more than one (1) two-way driveway onto a single roadway. Such driveway must be no greater than thirty (30) feet wide.
 2. No use which generates one hundred (100) or more vehicle trips per day shall have more than two (2) points of entry from and two (2) points of egress to a single roadway. The combined width of all accessways must not exceed sixty (60) feet.

§5 Accessway Location and Spacing

All accessways must meet the following standards:

- A. Private entrances/exits must be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection, as measured from the point of tangency for the corner to the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.
- B. Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

§6 Internal Vehicular Circulation

The layout of the site must provide for the safe movement of passenger, service, and emergency vehicles through the site to include:

- A. Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of [WB-40] vehicles.
- B. Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).
- C. The layout and design of parking areas must provide for safe and convenient circulation of vehicles and pedestrians throughout the lot.
- D. All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.
- E. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, adequate parking, and delivery and collection services.

§7 Parking Layout and Design

Off-street parking must conform to the following standards:

- A. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street and parking to the side or rear of buildings is encouraged. Parking stalls shall not be directly accessible from any public way. Ingress and egress to parking areas shall be limited to driveway entrance.
- B. All parking spaces, access drives, and impervious surfaces must be located at least [five (5) feet] from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within [five (5) feet] of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- C. Parking stalls and aisle layout must conform to the following standards.

Parking Stall Angle	Skew Width	Stall Width	Depth	Aisle Width
90°		9'-0"	18'-0"	24'-0" two way
60°	8'-6"	10'-6"	18'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-6"	12'-0" one way only
30°	8'-6"	17'-0"	17'-0"	12'-0" one way only

- D. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
- E. Parking areas for nonresidential uses must be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. Double stack parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- F. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

§8 Pedestrian Circulation

The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project.

§9 Stormwater Management

Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, roofs, and other surfaces, through a stormwater drainage system and maintenance plan, which must not have adverse impacts on abutting or downstream properties and include:

- A. To the extent possible, the plan must retain stormwater on the site using the natural features of the site.
- B. Unless the discharge is directly to the ocean or major river segment, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate.
- C. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- D. All natural drainage ways must be preserved at their natural gradients and must not be filled or converted to a closed system unless approved as part of the site plan review.
- E. The design of the stormwater drainage system must provide for the disposal of stormwater without damage to streets, adjacent properties, downstream properties, soils, and vegetation.
- F. The design of the storm drainage systems must be fully cognizant of upstream runoff that must pass over or through the site to be developed and provide for this movement.
- G. The biological and chemical properties of the receiving waters must not be degraded by the stormwater runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required, especially where the development stormwater discharges into a gravel aquifer area or other water supply source, or a great pond.

§10 Erosion Control

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve desirable natural surroundings to the fullest extent possible such that filling, excavation and earth moving activity must be kept to a minimum. Parking lots on sloped sites must be terraced to avoid undue cut and fill, and/or the need for retaining walls. Natural vegetation must be preserved and protected wherever possible.

Soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 1991 or other plan approved by the Planning Board.

§11 Water Supply

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms to its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

§12 Sewage Disposal

The development must be provided with a method of disposing of sewage that is in compliance with the State Plumbing Code or Subsurface Wastewater Disposal Rules.

When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

§13 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.

§14 Natural Features

The landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

§15 Groundwater Protection

The proposed site development and use must not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. Applicants whose projects involve on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the

property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

§16 Water Quality Protection

All aspects of the project must be designed so that:

- A. 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 groundwater 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.
- B. 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.
- C. If the project is located within the watershed of a 'body of water most at risk from development' as identified by the Maine Department of Environmental Protection (DEP), the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous.

§17 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. 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.

§18 Solid Waste Disposal

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.

§19 Historic and Archaeological Resources

If any portion of the site has been identified by appropriate state agencies or the Montville Comprehensive Plan 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.

§20 Floodplain Management

If any portion of the site is located within a flood hazard area as identified by the Federal Emergency Management Agency's Flood Insurance Rate Maps, or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils, all use and development of that portion of the site must be consistent with the Town's Floodplain management provisions.

§21 Noise Limitations

The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and sound levels as listed below.

7:00 a.m. to 7:00 p.m. <65

7:00 p.m. to 7:00 a.m. <50

Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source. Measurements of sound pressure level limits are to be made using the sound equivalent level of one minute (leq1) (measured in dB[a] scale).

§22 Exterior Lighting.

The proposed development must have adequate exterior lighting to provide for its safe use during nighttime hours, if such use is contemplated. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.

Lighting fixtures must be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. Direct or indirect illumination must not exceed 0.5 foot-candles at the lot line or upon abutting residential properties. All exterior lighting, except security lighting, must be turned off between 11 P.M. and 6 A.M. unless located on the site of a commercial or industrial use which is open for business during that period.

ARTICLE XI - POST APPROVAL ACTIVITIES

§1 Limitation of Approval

Substantial construction of the improvements covered by any site plan approval must be commenced within twelve (12) months of the date upon which the approval was granted. If construction has not been substantially commenced and substantially completed within the specified period, the approval shall be null and void. The applicant may request an extension of the approval deadline prior to the expiration of the period. Such request must be in writing and must be made to the Planning Board. The Planning Board may grant up to two (2), six (6) month extensions to the periods if the approved plan conforms to the ordinances in effect at the time the extension is granted and any and all federal and state approvals and permits are current.

§2 Incorporation of Approved Plan

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.

§3 Improvement Guarantees

The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in ARTICLE VI, Section 1, Performance Guarantees, and as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to Selectmen, Planning Board, and Code Enforcement Officer who shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the Planning Board, Selectmen, and Code Enforcement Officer. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

§4 Submission of As-Built Plans

Any project involving the construction of more than twenty thousand (20,000) square feet of gross floor area or fifty thousand (50,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted within thirty (30) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

§5 Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. The Code Enforcement Officer must endorse any such change in writing on the approved plan.

§6 Amendments to Approved Plans

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.

ARTICLE XII – ENFORCEMENT AND VIOLATION

§1 Enforcement

It shall be the duty of the CEO or his/her agent to enforce the provisions of this ordinance. If the CEO or his/her agent shall find that any provision of this ordinance is being violated, he/she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. He/she shall order discontinuance of illegal use of buildings, structures, additions, or work being done, or shall take any other action authorized by this ordinance to insure compliance with or to prevent violation of its provisions.

The CEO is hereby authorized to institute or cause to be instituted, in the name of the Town of Montville, any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this ordinance; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this ordinance.

§2 Violations

Any person, firm, or corporation being the owner of or having control or use of any building or premises that violated any of the provisions of this ordinance, shall be fined in accordance with Title 30-A §4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized Municipal Official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

ARTICLE XIII - APPEAL OF PLANNING BOARD ACTIONS

§1 Administrative Appeal

Any person aggrieved by an action from determinations of the Planning Board pursuant to this Ordinance may file an application for appeal.

- A. All appeals shall be in writing and submitted within 30 days of the granting or denial of approval from the Planning Board. The applicant shall file this appeal with the Chair of the Board of Appeals, who shall issue a dated receipt within 7 days, and notify the applicant in writing that the application is either complete or incomplete. The Chair shall specify what additional material is needed, if any, to make the application complete.
- B. The fee to accompany applications for appeal shall be specified by the Planning Board. An additional fee shall be required to cover the costs of advertising, postal notification, and dissemination of information for the appeals hearing.
- C. The Board of Appeals shall, upon complete written application of an aggrieved party, and after public notice, hear appeals within 30 days of such application. Such hearing shall be held in accordance with Maine State Law. The board shall cause notice of the date, time and place of public hearing with the general nature of the question involved to be given in writing to the applicant of the appeal. Notice shall be published in a newspaper of general circulation in the Town of Montville, Maine at least two times. The date of the first such publication shall be at least fourteen (14) days prior to the hearing. The Board shall also cause notice of the hearing be given to the Selectman, the Planning Board, the Code Enforcement Officer, and all property owners within 3,000 feet of the boundaries of the proposed project at least 21 days prior to the date of the hearing.
- D. If such application for appeal is not made within the stated time, the prior decision of the Planning Board shall be final.
- E. Following such hearing the Board of Appeals may reverse the decision of the Planning Board only upon a finding in fact that the decision of the Planning Board is clearly

contrary to specific provisions of this Ordinance. The Board of Appeals shall render a decision in writing to the applicant, Planning Board Chair, Code Enforcement Officer, and the Selectmen within 30 days of the appeal hearing.

§2 Appeal to Superior Court

- A. Any aggrieved party, having proper standing, may appeal any decision of the Appeals Board under this Ordinance to the Superior Court of Waldo County, within thirty days of a written decision in accordance with Maine State Law.
- B. Any appeal granted contrary to the standards set forth in this Ordinance, except as noted in Article X, §1 of this Ordinance, shall be null and void.

ARTICLE XIV - AMENDMENTS TO THE ORDINANCE

§1 Initiation of Amendment

An amendment to this ordinance may be initiated by:

- A. The Planning Board (provided that a majority of the Board has so voted.), or
- B. Request of the Selectmen to the Planning Board, or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Montville, Maine numbering at least 10% of the number who voted in the last gubernatorial election.

§2 Adoption of Amendment

All proposed amendments to this ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty (30) days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Montville, Maine at a Town Meeting, a simple majority vote being required for adoption.

ARTICLE XV - SEVERABILITY

Should any article or provision of the ordinance be declared by the courts of the State of Maine or the courts of the United States to be invalid, such decisions shall not invalidate any other article or provision of the ordinance.

This ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this ordinance provides a greater restriction upon the use of the land, buildings or structures, the provisions of this ordinance shall prevail.

ARTICLE XVI - AVAILABILITY

A certified copy of this ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of the availability of this ordinance shall be posted.

ARTICLE XVII - DEFINITIONS

§1 Construction of Language

In general, all words and terms used in this Ordinance shall have customary dictionary meanings. More specifically, certain words and terms shall be described below.

§2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of the Ordinance.

§3 Definitions

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

Accessory Building: A detached, subordinate building, the use of which is clearly incidental and related to that of the principal building or use of the land, and which is located on the same lot as that of the principal building or use.

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

Aggrieved Party: An owner of land whose property is directly or indirectly affected by the granting or denial of an approval under this ordinance; a person whose land abuts land for which approval has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

Arterial: A controlled access road or a street or road with traffic signals at important intersections and/or stop signs on side streets or which is functionally classified by the Maine Department of Transportation as an arterial.

Building: Any permanent structure, having one or more floors and a roof, which is used for the housing or enclosure of persons, animals or property. When any portion thereof is separated by a division wall without opening, then each such portion shall be deemed a separate building.

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

Change From One Category of Nonresidential Use to Another Category of Nonresidential Use: A change in the type of occupancy of a nonresidential building or structure, or a portion thereof, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

Collector Street: A street that collects traffic from local streets and connects with arterials or a street or road functionally classified as a collector by the Maine Department of Transportation.

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

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

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

Fisheries, Significant fisheries: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife, Atlantic Salmon Authority, or Maine Department of Marine Resources as having significant value as fisheries and any areas so identified in the municipality's comprehensive plan.

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

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

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

Home Occupation: This term shall include both professional and personal services. It includes those occupations carried on in a dwelling unit or structure accessory to the dwelling unit which are:

- a. primarily conducted within such unit or structure,
- b. clearly incidental and secondary to the use of the dwelling for residential purposes and do not change the character thereof, and
- c. Carried on exclusively by a member or members of the family residing in the dwelling unit, except, however, three additional fulltime employees or the equivalent thereof, not residents of the dwelling unit nor members of the family, are additionally included.

The term shall also apply to those occupations which do not satisfy one or more of the 3 limits mentioned above, but which exceed those limits only for a continuous period of not more than 90 days and such that this excess specifically results from the seasonal nature of the occupation.

The traffic generated by such occupation shall not exceed 50 vehicle trips per day or create a traffic hazard. Any waste or hazardous waste shall be disposed of in accordance with DEP regulations. Should the Planning Board determine that the operation no longer fits the definition of a home occupation, it shall be subject to site plan review.

Impervious Surface: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of stormwater.

Local Street: A public street or road that is not identified as an arterial or collector. A local street includes a proposed street shown on an approved and recorded subdivision.

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

Natural Areas and Natural Communities, Unique Natural Areas and Natural Communities: Areas identified by a governmental agency such as the Maine Department of Conservation Natural Areas Program as having significant value as a natural area and any areas identified in the municipality's comprehensive plan.

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

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

Recharge Area: Area composed of permeable, porous material through which precipitation and surface water infiltrate and directly replenish groundwater in aquifers.

Setback, Front: An open area extending the entire width of a lot from lot sideline to lot sideline and extending in depth at a right angle from the street right-of-way to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Rear: An open area extending the entire width of a lot from lot sideline to lot sideline and extending at a right angle from the rear property line of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

Setback, Side: An open area extending along each sideline of a lot between the front setback and the rear setback on such lot and extending at a right angle from the sidelines of such lot to such depth as specified. Such area shall be unoccupied and unobstructed by any building from the ground upward.

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

Substantial Change: A substantial change shall be an increase of more than 500 square feet or 20% of the existing building footprint, whichever is less, within any three year period.

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

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

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

Wildlife Habitat, Significant Wildlife Habitat: Areas identified by a governmental agency such as the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals and any areas identified in the municipality's comprehensive plan.