

TOWN OF DIXMONT

SITE PLAN REVIEW ORDINANCE

February 12, 2002

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PROPOSED REVISION January 14, 2014

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SEC. 1. PURPOSE

The site plan review provisions set forth in this ordinance are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner which assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion, and sedimentation; protection of the groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

SEC. 2. APPLICABILITY OF SITE PLAN REVIEW

2.1 A person who has any right, title, or interest in a parcel of land must obtain site plan approval prior to commencing any of the following activities, numbered (1) through (6), on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site:

- 1) The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, which is greater than two thousand five hundred (2,500) sq. ft. in size, within any five (5) year period, and any structure greater than 40 feet in height.
- 2) Existing nonresidential uses, which seek to expand by greater than two thousand five hundred (2,500) sq. ft., within any (5) five-year period, with regard to floor space, parking area, seating capacity or outdoor storage area.
- 3) The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use if the nonresidential use occupies greater than two thousand five hundred (2,500) sq. ft., within any five (5) year period.
- 4) The establishment of a new nonresidential use, including, but not limited to, uses such as gravel pits, golf courses, facilities or land used for outdoor festivals or mass gatherings, commercial mining activities, and other nonstructural nonresidential uses.
- 5) The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use, within any five (5) year period, if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use, subject to the standards and criteria of site plan review described in Section 9 of this ordinance.
- 6) The construction or expansion of paved areas or other impervious ground surfaces, including walkways, access drives, and parking lots for nonresidential use involving an area of more than two thousand five hundred (2,500) square feet within any (5) five year period.

2.2 The following activities shall not require site plan approval. Certain of these activities may, however, require the owner to obtain a building permit, plumbing permit or other State of Maine or local approvals:

- 1) The construction, alteration, or enlargement of a single family or two-family dwelling including accessory buildings and structures.
- 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) Agricultural activities, excluding agricultural buildings and structures.
- 4) Timber harvesting and forest management activities, excluding buildings and structures.
- 5) Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.
- 6) Subdivisions as defined by Title 30-A, MRSA Section 4401 and the Town of Dixmont's Subdivision Ordinance.
- 7) No Retroactive Effect - this ordinance shall not apply to buildings or improvements which existed or were under construction when this ordinance became effective.

SEC. 3. DEFINITIONS

3.1. Meaning of Words

All words not defined herein shall carry their customary and usual meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural.

3.2. 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 property.

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

ACCESSORY STRUCTURE OR USE: A use or structure which is incidental and subordinate to the principal structure or use. 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 Dixmont 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 and whose land is negatively affected in any manner; 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 State of 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 State of 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 A STRUCTURE: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State of Maine 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 of Maine Fire Code.

FISHERIES, SIGNIFICANT FISHERIES: Areas identified by a governmental agency such as the State of Maine Department of Inland Fisheries and Wildlife, State of 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 ARCHAEOLOGICAL RESOURCES: Areas identified by a governmental agency, such as the State of Maine Historic Preservation Commission, as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan.

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, rooftops, 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.

MUNICIPAL OFFICERS: The Board of Selectmen

NATURAL AREAS AND NATURAL COMMUNITIES, UNIQUE NATURAL AREAS AND NATURAL COMMUNITIES: Areas identified by a governmental agency such as the State of 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.

NONRESIDENTIAL: Commercial, industrial, office, institutional, utility, or recreational purposes.

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

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

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

SETBACK: An open area as defined by Town of Dixmont Land Use Ordinance and Building Code. Such area shall be unoccupied and unobstructed by any building from the ground upward.

SITE: All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

SQUARE FEET (sq. ft.): The length times the width of the intended improvement or in the case of a building, the **BUILDING FOOTPRINT**.

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

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

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

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

WILDLIFE HABITAT, SIGNIFICANT WILDLIFE HABITAT: Areas identified by a governmental agency such as the State of 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.

SEC. 4. INTERPRETATION OF THE ORDINANCE AND APPEALS

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 within thirty (30) days.

The Board of Appeals shall have the following powers:

- 1) **Administrative Appeals:** To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.

2) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

A. Variance Appeals

1. The Board of Appeals may grant a variance if the Board finds that the strict application of the ordinance requirements would result in undue hardship. The term "Undue Hardship" means:
 - a. The land in question cannot yield a reasonable economic return, unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not the general conditions of the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.

SEC.5. ADMINISTRATION AND ENFORCEMENT

This ordinance shall be administered and enforced by a Code Enforcement Officer (CEO) appointed by the Municipal Officers.

It shall be the duty of the CEO or the CEO's agent to enforce the provisions of this ordinance. If the CEO or the CEO's agent shall find that any provision of this ordinance is being violated, notification shall be provided in writing to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. The CEO or the CEO's agent 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.

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon written notification from the CEO, are hereby directed to institute 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 who may be entitled to equitable or legal relief, to enjoin any act contrary to the provisions of this ordinance.

Any person, firm, or corporation, being the owner of or having control or use of any building or premises, who violated any of the provisions of this ordinance, may 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/or 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. It is the intent of this section that all administrative appeals and procedures should be employed before any fines are assessed.

SEC. 6. REVIEW AND APPROVAL AUTHORITY

The Planning Board is authorized to review and act on all site plans for development, requiring site plan review as defined above.

In considering site plans under this provision, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

SEC. 7. REVIEW PROCEDURES

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

7.1. Preapplication

Prior to submitting a formal application, the applicant or their representative may request a preapplication conference with the Planning Board. A preapplication conference is strongly advised. The preapplication conference shall be informal and informational in nature. There shall be no fee for a preapplication 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 preapplication conference.

7.1.1. Purpose

The purposes of the preapplication conference are to:

- 1) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
- 2) Allow the applicant to understand the development review process and required submissions,
- 3) Identify issues that need to be addressed in future submissions, and
- 4) Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

In addition, the Board may request a site inspection in accordance with subsection 7.2 (5) if deemed necessary and resolve any requests for waivers and variations from the submission requirements.

7.1.2. Information Required

There are no formal submission requirements for a preapplication conference. However, the applicant should be prepared to discuss the following with the Board:

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

7.2. Application Submission and Review 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 Clerk of the Town of Dixmont.

- 1) At the first meeting at which the application is considered, the Planning Board shall give a dated receipt to the applicant and shall thereafter notify by first-class mail all abutting property owners.
Written notice of the pending application shall be mailed to the Selectmen, Fire Chief, Road Commissioner, and Plumbing Inspector, and other interested parties.
- 2) Within forty-five (45) days, or on a mutually agreed upon time period, 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, 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) 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 (4) below, and place the item on the agenda for substantive review within forty-five (45) days of this finding.
- 4) 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 notice in (1). Public notice will be given for all public meetings.
- 5) 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 take final action on the application as specified in (6) may be extended, which 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 (4).

- 6) 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.

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 (4), 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.

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

7.3. Final Approval and Filing

Upon completion of the requirements of this Section and 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 Town Clerk by the Planning Board within seven (7) days.

7.4. Fees

7.4.1. Application Fee

An application for site plan review must be accompanied by an application fee of \$500. 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 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.

7.4.2. Technical Review Fee

In addition to the application fee, the applicant for site plan review may also be required to pay a technical review fee to defray the municipality's legal and technical costs of the application review.

The Board may require that an expert consultant or consultants review one or more submissions of an application and report as to compliance or noncompliance with this ordinance and advise, if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review

and the applicant shall deposit with the Town the full estimated cost that the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. If escrowed funds are insufficient for the consultant's review, the applicant shall deposit additional funds with the Town, based upon the consultant estimate, sufficient for completion of the consultant's review. The consultant shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant.

SEC. 8. SUBMISSION REQUIREMENTS

Applications for site plan review must be submitted on application forms provided by the municipality. The complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Clerk of the Town of Dixmont. 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 preapplication conference or at the initial review of the application if no preapplication 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.

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) 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:

8.1. 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 abutting property owners.
- 4) Sketch map showing general location of the site within the municipality based upon a reduction of the tax maps.
- 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 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.
- 8) The name, registration number, and seal of the person who prepared the plan, if applicable.
- 9) Evidence of the applicant's technical and financial capability to carry out the project as proposed.

8.2. Existing Conditions

- 1) Zoning classification(s), including overlay and/or subdistricts, of the property and the location of zoning district boundaries if the property is located in 2 or more zoning districts or subdistricts or abuts a different district.
- 2) 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.
- 3) Location and size of any existing sewer and water mains, 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.
- 4) Location, names, and present widths of existing public and/or private streets and rights-of-way within or adjacent to the proposed development.
- 5) The location, dimensions and ground floor elevation of all existing buildings on the site.
- 6) The location and dimensions of existing driveways, parking and loading areas, walkways, and sidewalks on or immediately adjacent to the site.
- 7) Location of intersecting roads or driveways within two hundred (200) feet of the site.
- 8) 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.
- 9) The direction of existing surface water drainage across the site.
- 10) The location, front view, dimensions, and lighting of existing signs.
- 11) Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
- 12) The location of the nearest fire hydrant, dry hydrant or other water supply for fire protection.

8.3. Proposed Development Activity

- 1) A general description of the proposed use or activity.
- 2) 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.
- 3) The direction of proposed surface water drainage across the site and from the site, with an assessment of impacts on downstream properties.
- 4) 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.
- 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, and ground floor elevation of all proposed buildings or building expansion proposed on the site.
- 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.
- 10) The location of all utilities, including fire protection systems.
- 11) Description of noise, odor, and visible emissions to be generated during construction and operation of the development.
- 12) An estimate of the peak hour and daily traffic to be generated by the project.
- 13) 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 State of 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.

8.4. Approval Block

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

SEC. 9. APPROVAL STANDARDS (AS)/PERFORMANCE STANDARDS (PS) 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 and post approval performance by the applicant. 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.

9.1. Utilization of the Site (AS)

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.

9.2. Adequacy of Road System (AS)

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

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.

9.3. Access into the Site (AS)

Vehicular access to and from the development must be safe and convenient.

- 1) Any driveway or proposed street must be designed so as to provide at least the minimum sight distance according to the State of Maine Department of Transportation standards, to the maximum extent possible.

- 2) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- 3) The intersection of any access/egress drive or proposed street must function:
 - a. 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.
- 4) 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 and does not promote shortcutting through the site.
- 5) 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 turning lanes, traffic directional islands, and traffic controls within public streets.
- 6) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

9.4. Accessway Location and Spacing (AS)

Accessways must meet the following standards:

- 1) 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 of the intersection to the point of curvature for the accessway.
- 2) Private accessways in or out of a development must be separated by a minimum of seventy-five (75) feet where possible.

9.5. Internal Vehicular Circulation and Parking (AS)

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

- 1) 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. (WB-40 vehicle is a semitrailer truck with an overall wheelbase of 40 feet.)
- 2) Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (eg. fire lane- no parking).
- 3) The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.
- 4) 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. The road network must provide for vehicular, pedestrian, and cyclist safety, all season emergency access, snow storage, and delivery and collection services.

- 5) 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.

9.6. Pedestrian Circulation (AS)

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. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

9.7. Stormwater Management (AS)

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.

- 1) To the extent possible, the development must retain stormwater on the site using the natural features of the site.
- 2) 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.
- 3) 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 the applicant will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.
- 4) 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.
- 5) 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.
- 6) The design of the storm drainage systems must be fully cognizant of upstream runoff which must pass over or through the site to be developed and provide for this movement.

- 7) 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.

9.8. Erosion Control (AS)

All building, site, and roadway designs and layouts must harmonize with existing topography and conserve 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 most recent edition of the State of Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices.

9.9. Water Supply (AS)

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 with 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.

9.10. Sewage Disposal (AS)

The development must be provided with a method of disposing of sewage that is in compliance with the State of Maine Plumbing Code.

- 1) All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
- 2) If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use connected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to

accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system will occur if and when the subsurface system needs to be replaced.

- 3) If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.
- 4) 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.
- 5) Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The pretreatment standards shall be determined by the applicable State of Maine standards.

9.11. Utilities (AS)

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.

9.12. Natural Features (AS)

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.

9.13. Groundwater Protection (AS)

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.

9.14. Water Quality Protection

All aspects of the project must be designed so that:

- 1) (PS) 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 groundwaters 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) (AS) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, must meet the standards of the State of Maine Department of Environmental Protection and the State of Maine Fire Marshall's Office.
- 3) (AS) If the project is located within the watershed of a body of water most at risk from development as identified by the State of 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.

9.15. Hazardous, Special and Radioactive Materials (PS)

The handling, storage, and use of all materials identified by the standards of a federal or State of Maine 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 State of Maine Department of Public Safety and other appropriate federal, State of Maine, and local regulations.

9.16. Shoreland Relationship (AS)

The development must not adversely affect the water quality or shoreline of any adjacent water body. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.

9.17. Technical and Financial Capacity (AS)

The applicant must demonstrate having the financial and technical capacity to carry out the project in accordance with this ordinance and the approved plan.

9.18. Solid Waste Disposal (AS)

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.

9.19. Historic and Archaeological Resources (AS)

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.

9.20. Floodplain Management (AS)

If any portion of the 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 Town's Floodplain management provisions.

9.21. Noise

- 1) (AS/PS) The development must control noise levels such that it will not create a nuisance for neighboring parties.
- 2) (PS) No person shall engage in construction activities on a site abutting any residential use between the hours of 11 p.m. and 5 a.m.

The following uses and activities shall be exempt from the noise regulations:

- 1) Noises created by construction and temporary maintenance activities on the project between 6:00a.m. and 10:00 p.m.
- 2) The noises of safety signals, warning devices, and emergency pressure relief valves and any other emergency activity.
- 3) Traffic noise on public roads or railroads not related to construction activity.

9.22. Buffering of Adjacent Uses (AS)

The development must provide for the buffering of adjacent uses where there is a transition from one type of use to another use and for screening of mechanical equipment and service and storage areas. Buffering must be designed to provide a year-round visual screen in order to minimize adverse impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof. A development must provide sufficient buffering when topographical or other barriers do not provide reasonable screening and where there is a need to:

- 1) Shield neighboring properties from any adverse external effects of the development, or
- 2) Shield the development from the negative impacts of adjacent uses.

The width of the buffer may vary depending on the treatment of the area. Within densely built-up areas, a buffer with dense plantings, fencing, or changes in grade may be as little as five (5) feet in width. A buffer with moderate levels of planting should be ten (10) feet to fifteen (15) feet in width. In suburban and rural settings, the width of the vegetated buffer should be increased to a minimum of

twenty-five (25) feet. Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof with a width of a minimum of five (5) feet.

9.23 Exterior Lighting (AS/PS)

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.

9.24 Performance Standards (AS)

An applicant must show the proposed development is designed to comply with the above indicated Performance Standards (PS).

SEC. 10. POST APPROVAL Activities

10.1. Limitation of Approval

Construction of the improvements covered by any site plan approval must be substantially commenced within twelve (12) months and substantially completed within twenty-four (24) months, unless otherwise extended, 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 of Maine approvals and permits are current.

10.2. Incorporation of Approved Plan

One copy of the approved site plan must be included with the application for the building permit 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.

10.3. Improvement Guarantees

10.3.1. Application

- 1) Improvement Guarantee - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection 10.3.2, 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.
- 2) 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 the Municipal Officers. The respective Municipal Officers shall inspect all improvements and must file a report indicating approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.
- 3) The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the Municipal Officers.
- 4) 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.

10.3.2. Form of Guarantee

Performance guarantees may be provided by a variety of means including, but not limited to, the following that must be approved as to form and enforceability by the Municipal Officers.

- 1) Security Bond -The applicant may obtain a security bond from a surety bonding company authorized to do business in the State of Maine.
- 2) Letter of Credit - The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
- 3) Escrow Account -The applicant may deposit cash or other instruments readily convertible into cash at face value, either with the municipality, or in escrow with a bank. Any such account must require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

10.4. 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 occupancy of the building.

10.5. 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. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer at the next scheduled Planning Board meeting.

10.6. 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 by the Planning Board.

SEC. 11. APPEAL OF PLANNING BOARD ACTIONS

An aggrieved party may appeal any decision of the Planning Board under this ordinance to the Dixmont Board of Appeals within thirty days. Appeal of any actions taken by the Dixmont board of Appeals shall be to the Penobscot County Superior Court within thirty days of the Board of Appeals decision in accordance with the State of Maine Rules of Civil Procedure, Rule 80B.

SEC. 12. AMENDMENTS TO THE ORDINANCE

Amendments of this ordinance may be initiated by the Municipal Officers, the Planning Board, or by written petition of Dixmont residents containing signatures of at least 10% of the most recent gubernatorial vote.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the municipal officers have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

The proposed amendments shall be adopted by a simple majority vote of the Town Meeting.

SEC. 13. SEVERABILITY

The invalidity of any section or provision of this ordinance shall not be held to invalidate any other section or provision of this ordinance.