

PROPOSED
SITE PLAN REVIEW ORDINANCE

APPENDIX C

Town of Etna: Site Plan Review Ordinance

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**Site Plan Review Ordinance
Town of Etna, Maine**

SECTION I – Purpose

Substantial development or major changes in land use can have a major impact on the cost and efficiency of municipal services and on the environment of the Town. Such development can have impacts on schools; trash disposal, water supply and quality, recreational facilities; septage disposal; fire protection; open space; road systems and circulation; traffic congestion; placement of buildings and structures; property values; the visual characteristics of the neighborhood and Town; and the general health, safety, and welfare of the community. It is the purpose of this Ordinance to minimize the impacts caused by development, and to accomplish the following objectives with the least possible regulation:

- A. To establish a fair and reasonable set of standards for evaluating each development proposal,
- B. To provide local protection from those particular nuisances which are not governed by State law or regulations,
- C. To suggest ways in which development proposals may be modified so that potential problems and nuisances would be minimized or prevented.
- D. To balance the right of land owners to use their land for the purposes stated above, with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off and the degradation of ground or surface water resources,
- E. To provide a public hearing process through which town residents may raise questions and receive answers about how new development proposals would affect them,
- F. To protect property values, and
- G. To reduce the off-site problems created by development, thereby decreasing the cost of maintaining or improving municipal facilities.

SECTION II – 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 Use of Structure – A subordinate use of a building, other structure or a subordinate building or structure:

- A. Whose use is customary in connection with the principal building, other structure or use of land; and
- B. Whose use is clearly incidental to the use of land; and
- C. Which is located on the same lot with the principal building, other structure, or on lot adjacent to such lot if in the same ownership or part of the same establishment.

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 another person or group of persons who have suffered particularized injury as a result of the granting or denial of such approval.

Alteration – Structural changes, re-arrangement, change of location, or addition to a building or structure, other than repairs and modifications in building equipment, involving more than 25% increase in the overall floor space or bulk of the building or structure at any time or in total since the effective date of this Ordinance.

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

Change of 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 occupants.

Commercial – Connected with the buying or selling of goods or services or the provision of facilities for a fee.

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

Home Occupation – Any occupation or profession which is accessory to a dwelling unit or residence, and

- A. Is customarily carried on wholly within a dwelling unit or wholly within a structure accessory to a dwelling unit; and
- B. Is carried on exclusively by a member or members of the family residing in the dwelling unit, except, however, two additional employees, not residents of the dwelling unit nor members of the family, shall be permitted; and
- C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Home occupations shall include such uses as antique and/or gift shops, art studios, beauty shops, dressmaking, teaching television repair, woodworking, ceramic studios, or the office of a broker, physician, dentist, attorney, surveyor, engineer, architect, accountant or insurance agent.

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

Institutional – A building or use devoted to some public, governmental, educational, charitable, medical or similar use.

Multi-Family Dwelling Unit – A building or structure containing three (3) or more dwelling units.

Party – The applicant(s), his or her authorized agent, all abutting property owners, and such other individuals or organizations as the Planning Board, at its discretion, finds to have a reasonable and identifiable interest in the proposed project.

Persons – Any person, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, educational, or charitable organization or institution or legal entity.

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

Structure – Anything constructed, erected, or placed, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

Subdivision – The term subdivision shall, for purposes of this Ordinance, include commercial, retail, home occupation, industrial, institutional building(s), structure(s), and multi-family dwellings consisting of three or more attached dwelling units.

Substantial Enlargement – An expansion of the land area of the development site by more than 25% at any one time, or in total, since the effective date of this Ordinance.

Unreasonable Adverse Effect – Means any unreasonable risk to man, the environment, existing municipal services, natural resources, and historic areas, taking into account the economic, social and environmental costs and benefits with the project.

Variance – A relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property, and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in undue hardship as defined in Title 30-A MRSA § 4353, Subsection 4. A financial hardship shall not constitute grounds for granting a variance. The crucial points for a variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present.

SECTION III – Applicability

This Ordinance shall apply to all development proposals for new construction or alterations or substantial enlargements or change of use or expanded use to commercial, home occupation, retail, industrial, institutional and multi-family dwelling units, buildings and their accessory uses, and structures. This Ordinance shall not apply to structures used exclusively for single family residences.

SECTION IV – Site Plan Content and Application Procedures

The Site Plan of Development Application for all except home occupation shall include the following items. The Planning Board may waive items not applicable to the development or may require information not specified below but which is pertinent to the development:

- A. A map or maps prepared at a scale of not less than one (1) inch to 50 feet and shall include:
 - a. Name and address of the applicant or his/her authorized agent, name of the proposed development and identification of any land within 500 feet of the proposed development in which the applicant has title or interest.
 - b. Boundaries of the tract of land certified by a registered land surveyor.
 - c. Existing soil conditions as described by a registered soil scientist, geologist or engineer.
 - d. Copies of pertinent municipal tax maps with lot numbers and names of abutting property owners.
 - e. Location of existing and proposed buildings and other structures, including use and proposed use thereof.
 - f. Location, size and elevation of buildings on abutting properties or within 200 feet of the property line of the proposed development.
 - g. Location of existing public streets.
 - h. Location and design of proposed access drives from public streets.

- i. Location, design and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.
 - j. Location of existing and proposed pedestrian walkways.
 - k. Location of existing and proposed utilities and easements including sanitary sewage, water, electricity and public rights-of-way. If the site is not to be served by a public sewer system, then an on-site soils investigation report by a Department of Human Services licensed site-evaluator shall be provided.
 - l. Location of existing natural and man-made drainage ways and proposed storm drainage facilities including dimensions of culverts, pipes, etc.
 - m. Location, intensity, type, size and direction of all outdoor lighting.
 - n. Location and size of signs and all permanent outdoor fixtures.
 - o. Landscape plan showing location, type and approximate size of plantings and location and dimension of all fencing and screening.
 - p. Contour lines at appropriate intervals to show the effect on the land of existing and proposed grades.
 - q. Location of any affected groundwater aquifers and aquifer re-charge areas.
- B. A written statement by the applicant that shall consist of:
- a. Evidence by the applicant of his title and interest in the property, or evidence that the applicant has entered into a binding purchase and sales agreement in the property, for which the application covers.
 - b. A description of proposed uses of the site.
 - c. Total floor area and ground coverage of each proposed building and structure and the percentage of lot covered by each building or structure.
 - d. Description of existing and proposed easements, restrictions and covenants placed on the property.
 - e. Method of solid waste disposal.
 - f. Erosion and sedimentation control plan.
 - g. Copies of letters to the abutting property owners, Selectmen, Town Manager, Fire Chief, and RSU #19 School Superintendent, notifying them of the proposed development.
 - h. Statement of financial capacity which should include the names and sources of the financial parties, including banks, government agencies, private corporations, partnerships, and whether these sources of financing are for construction loans or long term mortgages, or both.
 - i. List all applicable local, state and federal ordinances, statutes, laws, codes and regulations pertaining to the development of the site.
 - j. The applicant's evaluation of the availability and suitability of off-site public facilities, including sewer, water, streets, parking, solid waste and schools.
 - k. A statement from the Fire Chief as to the availability of fire hydrants and/or fire ponds, or other provisions for fire protection services.
 - l. An estimate of the date when construction will start and development will be completed.
- C. Traffic Data:
- A plan may be required to have an accompanying traffic engineering study should the project propose a total building coverage in excess of 5,000 square feet (ground floor area) or an area in excess of 30,000 square feet which is to be roofed, paved, or stripped of vegetation. Should a traffic study be requested by the Planning Board, the following data shall be included:
- a. The estimated peak-hour traffic to be generated by the proposal.
 - b. Existing traffic counts and volumes on surrounding roads.
 - c. The capacity of surrounding roads and any improvements which may be necessary on such roads to accommodate anticipated traffic generation.
 - d. The need for traffic signals and signs of other directional markers to regulated anticipated traffic.
- D. The Site Plan of Development Application for home occupation shall include the following items. The Planning Board may waive items not applicable to the development or may require information not specified below but which is pertinent to the development:
- a. A map, or maps prepared, at a scale of not less than one (1) inch to 50 feet and shall include:
 - 1. Name and address of the applicant.

2. Boundaries of the tract of land as indicated on the property deeds and Town of Etna tax maps, indicating thereon the tax map and lot numbers, and the names of abutting property owners.
 3. Location of existing and proposed buildings and other structures including use and proposed use thereof.
 4. Location of existing public streets.
 5. Location and design of proposed access drives, if any, to the lot from public streets.
 6. Location and design of any proposed off-street parking.
 7. Location of existing and proposed utilities and easements, including sewage, water, electricity, and public/private rights-of-way. If the site is not served by a public sewer system and if the proposal requires additional septage discharge facilities, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided.
 8. Location, intensity, type, size and direction of additional outdoor lighting.
 9. Location and size of signs and all permanent outdoor fixtures.
 10. Location and dimension of any additional fencing and screening.
- b. A written statement by the applicant that shall consist of:
1. Evidence by the applicant of his/her title and interest in the property for which the application is submitted.
 2. A description of the proposed uses of the site.
 3. Total floor area involved in the proposal if included within the original structure or building.
 4. Total floor area and ground coverage of each additional building and structure.
 5. Description of existing and proposed easements, restrictions and covenants placed on the property.
 6. An estimate of the date when construction will start and when the development will be completed.
- c. Application Procedures
1. The application accompanied by the appropriate fee shall be filed with the Planning Board for review. Within 30 days of the filing of an application, the Planning Board or its designee shall notify the applicant that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the applicant and begin its review of the proposed development.
 2. When the Planning Board determines it is necessary, it may, after notification to and at the expense of the applicant, employ one or more independent consultants. The estimated costs of such consultants must be deposited with the Town of Etna prior to employing any independent consultant. Any money not spent must be reimbursed to the applicant. If the cost of the review exceeds the amount deposited, the applicant must deposit additional funds with the Town of Etna before Site Plan approval may be granted.
 3. The Planning Board may hold a public hearing within 30 days of the filing of the completed application. The Planning Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area-wide circulation. The abutting property owners shall be notified of the hearing by regular mail, the failure of which shall not constitute grounds for the invalidation of any approval issued under this Ordinance.
 4. Within 30 days of the public hearing, or within 60 days of receiving the application, the Planning Board shall approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
 5. Within seven days of reaching its decision, the Planning Board shall notify the applicant, in writing, of any action taken and the reason for taking such action.
 6. Within two years immediately following the date of application approval by the Planning Board, the project must be fully completed. One year extensions of the two-year limit may be granted by the Planning Board for delays caused by factors beyond the applicant's control such as but not limited to: probate, legal morass, State and Federal regulatory delays, acts of God, etc.

7. Should any use, subject to the provisions of this Ordinance, be discontinued for one continuous year, or longer, such use may not commence again without a complete Site Plan Review Application.
8. **Changes to Approved Plans:** Those changes or changes of use from the original approved plan require Planning Board Review and Approval. Additionally, changes of use require public hearing and notification to abutters. If the amendment is presented within one year of the date of the approved plan, a complete Site Plan Review Application may not be required by the Planning Board.

SECTION V – Performance Standards

The following standards are to be used by the Planning Board in judging applications for site plan review and shall serve as minimum requirements for approval of the site plan. The site plan shall be approved, unless in the judgment of the Planning Board, the applicant is not able to reasonably meet one or more of the following standards. In all instances the burden of proof shall be on the property owner and shall include the production of evidence necessary to complete the application.

- A. **Preserve and Enhance the Landscape:** The landscape shall be preserved in its natural state insofar as is practicable by minimizing tree removal, disturbance of soil, and by retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from public walks, public rights-of-way, and abutting properties and/or structures, in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring lands and uses. For commercial and industrial subdivisions, due consideration shall also be given the location of building(s), parking areas and other structures, within those areas of the property to be subdivided, that are most suitable for such uses. Areas deemed unsuitable for development, or possessing important natural or scenic values shall be maintained in a natural condition. In this regard, particular consideration shall be given to shoreland resources.
- B. **Relationship of Proposed Buildings to Environment:** Proposed building(s) or structure(s) shall be related harmoniously with the surrounding terrain and to existing buildings within the vicinity which have a visual relationship to the proposed building(s) or structure(s). Special attention shall be paid the bulk, location, height, and siding of the building(s) or structure(s) and to such natural features as slope, soil type, drainage ways, and important wildlife habitats.
- C. **Vehicle Access:** The proposed site layout shall provide for safe ingress and egress from existing or proposed public and private roads. The layout shall indicate the location(s), number(s), and any on-site control(s) of these ingress/egress points, as well as any turning lanes and traffic signs or signals when required by existing or projected traffic flow on the existing or proposed public and private roads.
- D. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and use of parking areas.
- E. **Surface Water Drainage:** Adequate provision shall be made for surface drainage so that the removal of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion, slope stability or public storm drainage systems. Whenever possible, on-site absorption of run-off surface waters shall be utilized as a means of minimizing discharge from the site and to retain the natural drainage patterns.
- F. **Existing Utilities:** The development shall not impose an unreasonable adverse effect on sewers, sanitary and storm drains, water lines or other public utilities.
- G. **Advertising Features:** The size, location, design, lighting and materials for all exterior signs and outdoor advertising structure(s) or features shall not detract from the design of the proposed building(s) and structure(s) and the surrounding properties.

- H. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structure(s) shall have sufficient setbacks and screening so as to provide an audio/visual buffer sufficient to minimize their unreasonable adverse effect on other land uses within the development area and surrounding properties, and on recreational uses of public waters.
- I. **Exterior Lighting:** All exterior lighting shall be designed so as to minimize unreasonable adverse effect upon neighboring properties. All outdoor fixtures should be fully shielded and installed in such a way that no light is emitted above a horizontal plane running through the lowest part of the fixture.
- J. **Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- K. **Municipal Services:** The development will not have an unreasonable adverse effect on the municipal services, including municipal road systems, fire department, police department, solid waste program, sewage treatment plant, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.
- L. **Water Pollution:** Adequate provision shall be made to prevent an unreasonable adverse effect upon the quality of water. In addressing this matter, the layout plan shall indicate consideration of land elevation above sea level and its relationship to the flood plains, as well as the nature of soils and sub-soils and their ability to adequately support waste disposal. The layout plan shall also show consideration of the general slope of the land, and the slope's effect on effluents, and aquifer and aquifer re-charge areas; availability of streams or brooks for surface water runoff; the effect of project surface water runoff on shoreland resources; and applicable federal, state and local laws, ordinances, codes and regulations.
- M. **On Site Water Supply:** The layout site plan shall indicate that sufficient water supply is available for reasonably foreseeable needs of the development without causing an unreasonable adverse effect on an existing water supply.
- N. **Soil Erosion:** The development shall not cause unreasonable soil erosion nor a reduction in the capacity of the land to retain surface water, resulting in a dangerous or unhealthy condition.
- O. **Septage Disposal:** The layout plan shall provide for adequate septage waste disposal in conformance with pertinent state and federal laws.
- P. **Adverse Effects:** The development shall not have unreasonable adverse effects upon the scenic or natural beauty of the area, historic sites, important wildlife habitats or rare and irreplaceable natural areas.
- Q. **Financial Capacity:** The applicant shall demonstrate adequate financial and technical capacity to meet above standards.

SECTION VI – General Provisions

- A. The Planning Board may, upon reviewing the application, impose any conditions on the applicant that the Planning Board deems necessary in order to bring the application into compliance with the Ordinance.
- B. The Planning Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- C. All construction which is to be performed under the authorization of a building permit or certificate of occupancy, issued for the development within the scope of the Ordinance, shall be in conformance with the approved plan.
- D. The application fee schedule, cited in Section IV, subsection D. c. 1, shall be determined by the Municipal Officers upon recommendations of the Planning Board.

SECTION VII – Violation, Enforcement and Penalties

- A. **Violation and Enforcement:** The Planning Board, the Board of Selectmen or the appropriate municipal official, upon a finding that any provision of this Ordinance, or the conditions of any provision of this Ordinance, is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance.
- B. **Penalties:** Any person or persons who violate any provision (s) of this Ordinance or any permit issued under the provisions of this Ordinance, shall, upon conviction in Maine District Court, be subject to civil penalties in accordance with the provisions of Title 30-A MRSA § 4452.

SECTION VIII – Appeals

- A. If the Planning Board disapproves an application, or grants approval-with-conditions that are objectionable to the applicant or any abutting property owners or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, abutting property owner(s) or aggrieved party may appeal the decision of the Planning Board, in writing, to the Board of Appeals within 30 days of the Planning Board's decision.
- B. The Board of Appeals, if it determines that the Planning Board has clearly erred in the administration of the Ordinance, or has misinterpreted the provision of the Ordinance and only if such action results in undue hardship as defined in Title 30-A MRSA § 4353, may, after holding a public hearing, sustain, reverse or modify the Planning Board's decision and may grant a variance as defined herein. Public hearings shall be held in accordance with Title 30-A MRSA § 2691.

SECTION IX - Construction

- A. **Severability:** Severability is intended throughout the provisions of this Ordinance. Should any provision, including among other things any exceptions, part(s), phrase(s) or term(s) or the application thereof to any person or circumstances be held invalid, the application of other provisions of this Ordinance shall not be affected thereby and the validity of this Ordinance in any and all other respects shall not be adversely affected.
- B. **Supersession:** This Ordinance supersedes and replaces any and all like or comparable ordinances, policies or decisions previously enacted and in force within the Town of Etna, and shall remain in effect until or unless revoked, or superseded by action of the voters of Etna.
- C. **Amendments:** From time to time, circumstances may require that portions or sections of this Ordinance be amended, revised, or deleted. Such action shall be proposed at town meeting to the voters of Etna by the Board of Selectmen. Approval of any amendments, revisions or deletions rests exclusively with the voters of Etna.

SECTION X – Adoption

This Ordinance was submitted to the voters of Etna and adopted at a Town Meeting held on the sixth day of March 2010.

Submitted by the Etna Planning Board
Paige Blouin, Chair
Debra Garcia, Secretary
Stacy Green, Member