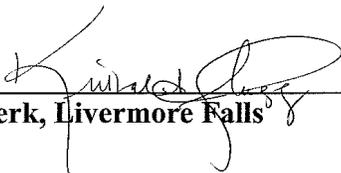


**SITE PLAN REVIEW ORDINANCE
OF THE
TOWN OF LIVERMORE FALLS**

**ATTEST: A True Copy of an ordinance entitled "Site Plan
Review Ordinance of the Town of Livermore Falls" as certified
to me by the Municipal Officers of the Town of Livermore
Falls on the 3rd day of June, 1991.**



Town Clerk, Livermore Falls

**SITE PLAN REVIEW ORDINANCE OF
THE TOWN OF LIVERMORE FALLS**

Section I. TITLE

This ordinance shall be known and cited as the “Site Plan Review Ordinance” of the Town of Livermore Falls, Maine, adopted and effective by vote of the Town Meeting.

Section II. PURPOSE

The purposes of this ordinance are to promote orderly growth in the Town and minimize adverse impacts of commercial and industrial development or redevelopment on municipal services and on the environment of the Town.

Section III. APPLICABILITY

- A. This ordinance shall apply to all development proposals for:
 - 1. New buildings, structures and land uses for commercial, retail, industrial, institutional, residential, recreational, utility, state or municipal.
 - 2. New uses or changed uses of land or of existing structures if such new or changed uses would generate significantly greater traffic, employ new materials or processes or generate any new impacts (glare, noise, odor) not normally associated with the previous use.
 - 3. Resumption of conforming uses that have been discontinued for at least two years.
 - 4. Expansion of existing uses by either 1,000 square feet or 25% in area (whichever is lesser) within any 10 year period, with regard to floor space, parking area, seating capacity, outdoor storage area or outdoor use area.

- B. The following uses and structures shall be exempt from this ordinance:
 - 1. The normal and customary practices involved in the growing and harvesting of field crops and timber.
 - 2. Home occupations.

3. Existing buildings and land uses legally established prior to the adoption of this ordinance unless one or more of the factors described in Section III A (1-4) is present.

Section IV. APPLICATION PROCEDURE

A. Pre-Application Meeting

1. Prior to submitting an application for development, the property owner, the property developer or his authorized agent may appear informally at a regular or special meeting of the Planning Board to discuss the proposed development.
2. The developer may present to the Planning Board at this time a sketch plan of the proposed development. The sketch plan should consist of a rough outline of the development and may be a free-hand, penciled sketch of the parcel, showing the proposed layout of the buildings, roads and other features which may be of assistance to the Planning Board in fully understanding the nature of the development proposal.
3. The Planning Board may request that the developer arrange for an inspection of the site by the Planning Board, or by an individual appointed by the Board Chairman to act as the Board's representative.
4. No binding commitments shall be made between the developer and the Planning Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed. However, the Board may waive any of the submission requirements if it finds they are not necessary to the review of a specific development proposal. Also, if the Board finds that the proposal meets the provisions of Section III B (1-3) above, it may at this time waive the review requirements altogether and approve the use.

B. Application

Each application shall be considered individually and those items required will be specified by the Planning Board. Any requirement may be modified or waived by the Planning Board. The Site Plan Review application shall be submitted to the Planning Board together with the appropriate fees. An application for the site plan approval shall be accompanied by a fee of \$10 per 2,000 sq. ft. or portion thereof of gross floor area for commercial, institutional and

industrial projects. This application fee shall be made by check payable to the Town. This fee shall not be refundable. The Planning Board shall not consider an application for site review until the fees have been received by the Town. The application shall include as a minimum:

1. A Site Plan consisting of a plan(s) and map(s) prepared at a scale determined by the Planning Board but which shall not be less than one inch to 100 feet and supporting documents that will provide the following information:
 - a. Name and address of the applicant or his authorized agent, the name of the owners of the property if other than the applicant and the name of the proposed development.
 - b. Two places (at least 3" X 3" each), one for the Planning Board signatures and one for conditions of approval, to be placed outside the drawing.
 - c. A site plan showing existing uses of the land and proposed uses of the land. The site plan shall be in sufficient detail to allow the Planning Board to determine how the land is currently used and how it will be used in the future. The details shall be sufficient to permit the Planning Board to determine the impacts of the development on the Town's infrastructure and surrounding properties.

2. Traffic Data

A site plan may be required to have an accompanying traffic engineering study if the project could have a significant impact on the volume or pattern of traffic in the Town. If such a study is required, it shall be accomplished by a Professional Engineer, registered in the State of Maine, and a written report prepared addressing the impact of the proposed development on traffic patterns.

C. Municipal Facilities Impact Analysis

The Planning Board may require the applicant to conduct an analysis of the impact of the proposed development upon public or municipal facilities and services including, but not limited to, sewer, water,

roads, solid waste and drainage, along with all costs estimated for correcting any negative impact on public or municipal facilities or decline in the level of public or municipal services resulting from the development. Once completed the analysis shall be submitted to the appropriate public agency or municipal board or department for review and comment. Where it is demonstrated that the development will result in a negative impact or decline in public or municipal facilities and services, the Planning Board may require the applicant to make improvements to community facilities and services or to provide for acceptable equivalent improvements as a condition of plan approval.

D. Outside Professional Services

An additional fee may be charged if the Planning Board needs assistance from an attorney, engineer or independent consulting service. The estimated consultant's fee shall be paid in full by the applicant on demand. Monies will be held in an escrow account. All funds not used for consulting services will be returned to the applicant.

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 a minimum requirement 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 these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence necessary to complete the application.

A. Preserve and Enhance the Landscape

The landscape including existing earth forms and vegetation shall be preserved in its natural state insofar as practicable. After construction is completed, landscaping shall be accomplished and plantings made that will define, soften or screen the appearance of off-street parking areas from the public right of way and abutting properties and/or structures, enhance the physical design of the building or site, and minimize the encroachment of the proposed use on neighboring land

uses. The proposed development shall not adversely affect the adjoining neighborhood nor change its character.

B. Vehicular Access

Provision shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

C. Drainage

Provision shall be made for drainage so that runoff of surface waters will not adversely affect neighboring properties, downstream water quality, soil erosion or the public storm drainage system. The Planning Board may require the use of stormwater retention structures if adequate protection of the abutting resources is not provided.

D. Municipal Services

The development shall not have an adverse impact on the municipal services including water supply, sewage disposal system, storm drainage system, road system, fire department, police department, emergency medical unit, solid waste disposal, schools, open spaces, recreational programs and facilities, and any other municipal services and facilities.

E. Water Supply

The applicant shall demonstrate to the satisfaction of the Planning Board that the development has sufficient water available to meet its foreseeable needs, and that the development will not cause an unacceptable burden on an existing water supply, if one is to be utilized.

F. Soil Erosion

The development shall not cause soil erosion or reduction in the capacity of the land to hold water to the extent that a dangerous or unhealthy condition may result.

G. Sewage Waste Disposal

The applicant shall demonstrate to the satisfaction of the Planning Board that he has made adequate provisions for sewage waste disposal. If sewage waste will be disposed of on site by means of a subsurface waste disposal system, the system's siting, design and

construction shall conform to the “State of Maine Subsurface Wastewater Disposal Rules”. No subsurface waste disposal system with an estimated daily effluent of 2,000 gallons or more shall be closer than 300 feet to an existing well, municipal or private.

H. Comprehensive Plan

No application for development shall be approved by the Planning Board which is not in conformity with the Comprehensive Plan for the Town of Livermore Falls.

Section VI. PLANNING BOARD ACTION ON APPLICATION

A. Within 30 days of receipt of an application, the Planning Board shall notify the applicant in writing either that the application has been found to be complete, or if the application is incomplete, that certain specific additional material is needed to make the application complete. When the Planning Board is satisfied that it has a complete application, it shall notify the applicant in writing and begin its review of the proposed development.

B. The Planning Board may hold a public hearing within 30 days after the Planning Board has notified the applicant that the application is complete. The Planning Board shall publish the time, date and place of the hearing at least seven days prior to the hearing in a newspaper of area-wide circulation. The applicant shall send notice of the hearing by certified mail, return receipts requested, to abutting landowners, including owners of property in the opposite side of the road, a minimum of 10 days prior to the date of the public hearing.

C. Within 30 days of the public hearing or if no public hearing is held within 60 days after the Planning Board has notified the applicant that the application is complete, the Planning Board shall either 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.

D. Within seven days of reaching their decision, the Planning Board shall notify the applicant in writing of any action taken and the reason for taking such action.

Section VII. GENERAL PROVISIONS

A. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that, because of the special circumstances of the site, such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and, if modified, would not adversely affect the abutting landowners and the general health, safety and welfare of the Town.

B. The Planning Board may require the applicant to file with the Board, at the time of the submission of the application or any time prior to improvements, a performance guarantee in the form of a performance bond running to the municipality and issued by a surety company acceptable to the municipality, a cashier's check payable to the treasurer of the municipality, an irrevocable letter of credit issued to the municipality by a banking or other lending institution, or a guarantee secured by deposits issued by a banking or lending institute authorized to issue the same, or another acceptable performance guarantee which is agreed to by both the applicant and the municipality. The conditions and amount of such performance guarantee shall be determined by the Board of Selectmen. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading and paving for roads intended for public acceptance, storm drainage, sewer and water lines, public street openings; and other utilities or other improvements shown on the plot or site plan.

C. All construction performed within the scope of this ordinance shall be in conformance with the approved site plan.

D. A permit granted under this ordinance shall expire if the work or change is not commenced within 12 months from the date of the vote on granting the permit, or if the work or change is not substantially completed within two years from the date of the vote on granting the permit.

Section VIII. AUTHORITY AND ADMINISTRATION

A. 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, MRSA, Section 3001.

B. Administration

The Planning Board of the Town of Livermore Falls shall administer this ordinance.

Section IX. ENFORCEMENT

A. Enforcement Procedure

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any provision is being violated, he or 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, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

2. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this ordinance.

B. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the municipality. 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.

C. Fines

Any person or corporation who shall violate any of the provisions of this ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than \$100 and not more than \$2,500, and each day on which such violations shall continue shall constitute a separate offense, as provided in Title 30-A, MRSA, Section 4452.

Section X. APPEALS

A. A site plan application shall be presented to the Planning Board or a formal written request for a decision regarding the provisions of the ordinance shall be made to the Planning Board before an applicant or abutting landowner or aggrieved party can appeal to the Board of Appeals.

If the Planning Board disapproves an application, or grants approval with conditions that are objectionable to the applicant or abutting landowner 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 or abutting landowner, or any 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 shall hold a public hearing within 30 days of receipt of the written request for appeal. The Board of Appeals shall publish the time, date and place of the hearing in a newspaper of area-wide circulation. If a site plan application has been presented, the applicant shall send notice of the public hearing by certified mail to abutting landowners, including property owners on the opposite side of the road.

The Board of Appeals, after holding a public hearing, may reverse the Planning Board's decision if it is clearly contrary to the ordinance or not supported by substantial evidence in the record or, if the requirements of paragraph C below are met, may grant a variance.

The Board of Appeals shall render its decision within 21 days of the hearing. Time limits may be extended by mutual agreement between the Board of Appeals and aggrieved parties in the case.

C. A variance may be granted by the Board of Appeals where a relaxation of the terms of this ordinance would not be contrary to the public interest and where a strict enforcement of this ordinance would result in undue hardship as defined in Title 30-A, MRSA, Section 4353. A financial hardship alone shall not constitute grounds for granting a variance. The crucial points of variance are the public interest, undue hardship and unique circumstances applying to the property. A variance is not justified unless all three elements are present in the case.

D. Appeals involving administrative procedure or interpretation shall initially be addressed by the Board of Appeals and proceed from the Board of Appeals to the Superior Court according to the State law.

E. Appeals involving conditions imposed by the Planning Board, or a decision to deny approval, may go directly from the Planning Board to the Superior Court.

Section XI. AMENDMENTS

This ordinance may be amended by a majority vote of the town meeting. Amendments may be initiated by a majority vote of the Planning Board or by the request of the Board of Selectmen to the Planning Board or on petition of 10% of the votes who voted in the town in the last gubernatorial election. The Planning Board shall conduct a public hearing on any proposed amendment.

Section XII. EXPIRATION OF APPROVAL

Failure to substantially complete a project within two years of the date of approval of a site plan shall render the plan null and void, and the Board shall have a notice to that effect placed in the Registry of Deeds.

Section XIII. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

A. Validity and Separability: Should any section or provision of this ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

B. Conflict with other Ordinances: Whenever the requirements of this ordinance are inconsistent with the requirements of any other regulation, ordinance, code or statute, the more restrictive requirements shall apply.

Section XIV. DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall have the same meaning as they have in common usage and shall be construed to give this ordinance its most reasonable application. Words used in the present tense include the future; the singular number includes the plural and the plural number includes the singular. The word “may” is permissive; “shall” is mandatory, not discretionary.

1. Accessory Use or Structure: A subordinate use of a building, other structure or land, or a subordinate building or other structure:
 - a. whose use is customary in connection with the principle building, other structure or land or;
 - b. whose use is incidental to the use of the principle building, other structure or use of land; and
 - c. which is located on the same lot with the principle building, other structure or use of land, or on a lot adjacent to such lot if in the same ownership or part of the same establishment.
2. Agriculture: Production of crops and livestock.
3. Campground: An area devoted to overnight recreational or educational use, where the land area is divided into sites or lots for which a charge is made; either on a short term or a long term basis by sale, rent or lease or by means of a condominium type ownership.

4. Commercial: Connected with the buying or selling of goods or services or the provision of facilities for a fee. Commercial uses shall include, but not be limited to: professional and business offices, retail outlets, services such as barber or beauty shops, tailors, laundromats, dry cleaners, restaurants, parking lots, service stations or repair garages, hotels, motels or inns, storage and horticultural activities and athletic or recreational facilities for hire.

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

6. Home Occupation: An occupation or profession which is customarily carried on in a dwelling unit or structure accessory to a dwelling unit which is incidental to residential use and employs two or less full-time equivalent outside employees.

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

8. Institutional: A building devoted to some public government, educational, charitable, religious, medical or similar purpose.

9. Multifamily Dwelling: a building consisting of three or more dwelling units and their accessory uses and structures.

10. Person: Any individual, firm, association, partnership, corporation, municipal or other local government entity, quasi-municipal entity, state agency, educational or charitable organization or institution or other legal entity.

11. Setback: The area between the property line or boundary line of a public right of way and any building or structure located on the premises. Setbacks are measured from the property line.

12. Structure: Anything constructed, erected or placed on the ground which is permanent, temporary or mobile. Structures include,

but are not limited to, buildings, mobile homes, recreational vehicles, piers and floats, storage and processing facilities.

13. Subdivision: as defined in Title 30-A, MRSA, Section 4401 and as amended, which states in part, “A subdivision is the division of a tract of land or parcel of land into 3 or more lots within any 5 year period, which period begins on or after September 22, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, unless the intent of that gift is to avoid the objectives of this section or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.”

The term “subdivision” shall also include the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5 year period and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5 year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph.

Notwithstanding the provisions of this paragraph, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this section.

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

15. Variance: A relaxation of the terms of this ordinance, granted by the Planning Board or by the Board of Appeals.

Adopted June 3, 1991

Amended June 13, 2001

