

# **Site Plan Ordinance**

**Anson, ME**

Adopted: March 6, 2009

Amended: March 2, 2013

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**1. Purposes.**

The purposes of this ordinance are to promote, protect, and facilitate the health, safety, and general welfare of the Anson residents; to prevent and control pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect freshwater wetlands; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological, historic and cultural resources; to control building sites, placement of structures and land uses; to assure that a minimal level of services and facilities are available to the residents of Anson; to conserve shore cover, and visual as well as actual points of access to inland waters; to conserve natural beauty and open space; to anticipate and respond to the impacts of development; and to assure that new development meets the goals and conforms to the policies of the Town of Anson Comprehensive Plan.

**2. Authority.**

This ordinance is prepared in accordance with the provisions of Title 30-A section 3001 of the Maine Revised Statutes Annotated (M.R.S.A.).

**3. Applicability.**

This ordinance applies to all development proposals meeting at least one of the following categories:

1. The construction or placement of any new building or structure for a non-residential use, including accessory buildings and structures, totaling 2,500 square feet or more of building footprint.
2. The expansion of an existing non-residential building or structure, including accessory buildings and structures, that will enlarge the building or structure to 2,500 square feet or more of building footprint.
3. The conversion of an existing building, in whole or in part, from a residential use to a non-residential use, provided the non-residential building or structure will total 2,500 square feet or more of building footprint.
4. The conversion of an existing non-residential use, in whole or in part, to another non-residential use, provided the non-residential building or structure will total 2,500 square feet or more of building footprint.
5. The establishment of a new, non-residential use, even if no buildings or structures are proposed, including such uses as gravel pits, mining operations, cemeteries, golf courses, and roads and driveways provided the use will develop an area of at least 25,000 square feet.

6. The expansion of an existing non-residential use, even if no buildings or structures are proposed, including such uses as gravel pits, mining operations, cemeteries, golf courses, and roads and driveways, provided the developed area after expansion will total 25,000 square feet or more.
7. All development thirty-five (35) feet or over in height, except for wind energy generating facilities. This ordinance is only applicable to wind energy generating facilities consisting of at least one wind turbine with an electricity generating capacity of 100 kW or greater.
8. For an existing non-residential use with at least 25,000 square feet of development: construction or modification of any use or structure on-site, such as, but not limited to signs, lighting, parking areas, or landscaping.

**4. Effective Date.**

This ordinance is effective upon adoption.

**5. Availability.**

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

**6. Severability.**

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the ordinance.

**7. Conflicts with Other Ordinances.**

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute administered by the Town of Anson, the more restrictive provision shall control.

**8. Amendments.**

This ordinance may only be amended by majority vote of the legislative body. Proposed amendments may be initiated by a majority vote of the Board of Selectpersons, Planning Board, or by written petition by a number of voters equal to at least 10% of the number of

votes cast in the municipality in the last gubernatorial election. No proposed amendments to this ordinance shall be referred to the legislative body until the Board of Selectpersons have held a public hearing on the proposal, notice of which shall be posted at least 14 days prior to such hearing and advertised in a newspaper of general circulation in the municipality at least 2 times, with the date of first publication being at least 14 days prior to the hearing and the 2<sup>nd</sup> at least 7 days prior to the hearing.

## **9. Fee Schedule.**

Developers of complex activities must review Section 11 Enforcement and Section 12 Performance Guarantees in this ordinance for additional costs relative to inspection and construction.

### **A. Application fees:**

All site plan review development applications shall be accompanied by a nonrefundable fee payable to the Town of Anson. This application fee amount is defined by the Board of Selectpersons, and can be found in the Town of Anson Development Fee Schedule.

A double fee shall be charged for any application submitted after the proposed use or construction has been initiated without the appropriate permit in violation of this ordinance. This does not void any fines or actions taken for ordinance violations.

### **B. Escrow fund fees:**

In addition to the application fee outlined in Section 9.A., all applicants for a site review permit shall pay an escrow fee of \$1,000 per application, to be deposited in a special escrow account designated for that development application. This fee shall be used for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with this ordinance. If the balance in this special account is drawn down by 75%, the Planning Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Planning Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Failure to comply with this escrow fee requirement, at any time during the review process, renders the application incomplete, and precludes further review of the application. Any remaining balance in the escrow account after a final decision on the application shall be returned to the applicant. At any time during the application review the municipality shall provide the applicant, upon written request, an accounting of the expenditures from the fund.

## **10. Administering Bodies and Agents.**

### **A. Code Enforcement Officer.**

The Code Enforcement Officer shall have the following powers and duties, relative to site plan review development:

- a. To enforce the provisions of this ordinance.
- b. To perform permit reviews as authorized by this ordinance.
- c. To issue stop work orders and other appropriate notices of violations.
- d. To investigate complaints and reported violations.
- e. To maintain an appropriate public record of all permits issued, permit applications, enforcement actions and other appropriate documents.
- f. To provide the state of Maine with information concerning permits and development activity as required.
- g. To assist the public with inquiries and other requests for information concerning this ordinance.
- h. To enter property at reasonable hours or enter any building with the consent of the property owner, occupant or agent to inspect the property or building for compliance with this ordinance.
- i. To exercise additional powers and duties authorized by statute.

### **B. Planning Board.**

The Planning Board shall have the following powers and duties, relative to site plan review development:

- a. To administer the provisions of this ordinance.
- b. To hear and decide upon applications in accordance with this ordinance.
- c. To issue permits and perform permit reviews in accordance with this ordinance.
- d. To revoke permits issued in error or which are based upon erroneous information.
- e. To enter property at reasonable hours or enter any building with the consent of the property owner, occupant or agent to inspect the property or building for compliance with this ordinance.
- f. To develop application forms for permits issued in accordance with this ordinance.
- g. To review and propose updates to this ordinance.
- h. To perform other duties as authorized by the Town of Anson.
- i. To exercise additional powers and duties authorized by statute.

### **C. Board of Appeals.**

All appeals regarding the administration and application of this ordinance shall be directed to the Town of Anson Board of Appeals, following the provisions outlined in the Board of Appeals Ordinance for the Town of Anson, Maine.

## **11. Enforcement.**

It is the Code Enforcement Officer's duty to enforce the provisions of this ordinance. If the Code Enforcement Officer shall find that any provision of this ordinance is being violated, he 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.

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 authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless 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.

The CEO shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

Any violation of this ordinance shall be deemed a nuisance. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this ordinance shall be penalized in accordance with Title 30-A M.R.S.A. section 4452.

### **A. Violations.**

- (1) The Code Enforcement Officer shall investigate all complaints of alleged violations of this ordinance.
- (2) A person shall not convey, offer or agree to convey any land or development within the jurisdiction of this ordinance that has not been approved by the Planning Board and recorded in the Registry of Deeds.
- (3) A person shall not occupy or conduct business in a development within the jurisdiction of this ordinance until final approval is granted by the Planning Board, and all required improvements have been provided and approved by the town.

- (4) No public utility, water district, sanitary district or any utility company of any kind shall serve any development within the jurisdiction of this ordinance until final approval is granted by the Planning Board.
- (5) No development within the jurisdiction of this ordinance can be performed without Planning Board approval. Performing such development, without Planning Board approval, shall be a violation of law.
- (6) The Code Enforcement Officer may represent the Town in District Court pursuant to Rule 80K of the Maine Rules of Civil Procedure.

**B. Inspections.**

The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals.

- (1) At least 5 days prior to commencing construction of required improvements, the builder shall:
  - a. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the CEO can inspect and assure that all municipal specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
  - b. Deposit with the town a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the builder. If the inspection account shall be drawn down by 75%, the builder shall deposit sufficient funds to bring the account up to the original deposit amount.
- (2) If the Code Enforcement Officer finds upon inspection of the improvements that any of the required improvements are not constructed in accordance with the plans and specifications filed by the developer, he shall issue an immediate stop work order and report in writing to the Planning Board and the builder. The stop work order shall only be removed with the Planning Board's approval, and following the regulations of the above Section 11.B.(1).
- (3) If at any time before or during the construction of the required improvements, it appears necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed

with the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the developer shall obtain permission to modify the plans from the Planning Board.

- (4) At the close of each summer construction season the Town shall, at the expense of the developer, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Planning Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- (5) Prior to the sale of any real property, the developer shall provide the Planning Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- (6) Upon completion of street construction and prior to a vote by the selectpersons to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to them at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of any applicable ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the selectpersons.
- (7) The developer is required to maintain all improvements and provide for snow removal on streets, parking lots, and sidewalks until acceptance of the improvements by the town or the control is placed with a other responsible entity.

## **12. Performance Guarantees.**

Performance guarantees shall be tendered for the construction of streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, erosion and sedimentation control measures, and mitigation following resource extraction or abandonment or decommissioning of a tower structure.

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

### **A. Escrow account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the

municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

**B. Performance bond.**

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the development for which approval is sought.

**C. Letter of credit.**

An irrevocable letter of credit from a bank or other lending institution with offices in the state of Maine shall indicate that funds have been set aside for construction of the development for the duration of the project and may not be used for any other project or loan. If construction is inadequate, the municipality shall have the ability to draw on these funds.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the road commissioner, municipal officers, and municipal attorney.

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

**D. Release of Guarantees.**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the development for which the release is requested.

If upon inspection, the CEO or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Planning Board, the municipal officers, and the applicant or builder. The

CEO shall issue an immediate stop work order. The stop work order shall only be removed with the Planning Board's approval.

The Planning Board may approve plans to develop in separate and distinct phases. This may be accomplished by limiting final approval to those lots or structures abutting that section of the proposed development street covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots or structures in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

### **13. Waivers.**

The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. If a waiver request is submitted with the application, the Planning Board shall review this request as part of the overall application review for completeness. If any part of the waiver request is denied, it shall render the application incomplete, and the Planning Board shall so notify the applicant, in writing, as part of the notification of whether the application is complete. If the waiver request is granted, the Planning Board shall specify, in writing, the conditions under which the waiver was granted, and notify the applicant as part of the notification of whether the application is complete. When granting waivers, the Planning Board shall set conditions so that the purposes of this ordinance are met.

The Planning Board may only grant a waiver according to A. or B. below.

#### **A. Submission Requirements.**

Where the Planning Board makes written findings of fact that there are special circumstances of a particular parcel or development project, it may waive portions of the submission requirements unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of the Comprehensive Plan or this ordinance.

#### **B. Improvements.**

Where the Planning Board makes findings of fact that due to special circumstances of a particular development, the provision of certain required improvements normally requiring a performance guarantee is not required to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this

ordinance, and further provided the performance standards of this ordinance will be met by the proposed development.

## **14. Permits.**

After the effective date of this ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit according to the applicability standards of this ordinance. A person who is issued a permit pursuant to this ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

Any permit required by this ordinance shall be in addition to any other permit required by other law or ordinance.

The submittal of a permit application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1 M.R.S.A. section 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

### **A. Review Criteria**

The applicant must prove that the proposed development activity is in conformity with the purposes and provisions of this ordinance. Following submission of a complete application, the Planning Board shall approve or approve with conditions only if it finds, based on the information presented, that the proposed project:

(1) Will not result in undue water or air pollution.

In making this determination, the reviewer shall at least consider:

- a. The elevation of the land above sea level and its relation to the flood plains.
- b. The nature of soils and subsoils and their ability to adequately support waste disposal.
- c. The slope of the land and its effect on effluents.
- d. The availability of streams for disposal of effluents.
- e. The applicable state and local health and water resources rules and regulations.
- f. Erosion and dust control during construction.

(2) Has sufficient safe drinking water available for the reasonably foreseeable needs of the development.

(3) Will not cause an unreasonable burden on an existing drinking water supply, if one is to be used.

- (4) Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed development requires driveways or entrances onto a state or state aid highway, located outside the urban compact area, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23 M.R.S.A. section 704 and any rules adopted under that section.
- (6) Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.
- (7) Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized.
- (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic and archaeological resources, significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife, rare and irreplaceable natural areas, any public rights for physical or visual access to the shoreline, or any other unique or special resources identified by the Anson Comprehensive Plan.
- (9) Is in conformance with the Anson Comprehensive Plan, as well as any other duly adopted regulations or ordinances. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.
- (10) Demonstrates that the developer has adequate financial and technical capacity to meet the standards of this ordinance.
- (11) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of surface waters.
- (12) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- (13) Must determine whether the proposed project is in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the development, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the development. The proposed development or project plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

- (14) Will identify all freshwater wetlands within the proposed development on any maps submitted as part of the application, regardless of the size of these wetlands. For purposes of this section, "freshwater wetlands" has the same meaning as in Title 38 M.R.S.A. section 480-B.
- (15) Will identify any river, stream or brook within or abutting the proposed development on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S.A. section 480-B.
- (16) Will provide for adequate storm water management, without undue adverse effects on adjoining properties, including waterbodies.
- (17) Will properly store and dispose of hazardous material.
- (18) If crossing municipal boundaries, the proposed development will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the development is located.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would violate any other local ordinance, regulation or statute administered by the municipality.

In determining whether conditions are appropriate or necessary, the Planning Board shall consider the unique features of the site, off-site impacts, the surrounding area, the proposed use, and the proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this ordinance. The findings of fact and the conditions shall be incorporated by the applicant into the application. The conditions shall be listed on the permit and shall be made enforceable under this ordinance.

## **B. Preapplication.**

Prior to submitting a formal application, the applicant or a representative may request a preapplication conference with the Planning Board. 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. No decision on the substance of the plan shall be made at the preapplication conference.

There are no submission requirements for the preapplication conference.

A request for a preapplication conference must be made at least 14 days prior to a Planning Board meeting. Any materials submitted with the request shall be copied and sent to all Planning Board members.

**C. Site Plan Permit.**

**(1) Review Procedure**

- a. Within 7 days of receiving the application, the Code Enforcement Officer shall:
  1. Issue a dated receipt to the applicant.
  2. Notify the clerk and the review authority of neighboring municipalities if any portion of the development abuts or crosses the municipal boundary.
- b. Within 30 days of receiving the application, the Planning Board shall make a determination of whether the application is complete. If the Planning Board determines that the application is complete, the Planning Board shall notify the applicant in writing of the determination. If the application is not complete, the Planning Board shall notify the applicant of the specific additional material needed to complete the application.
- c. If the application is complete, the Code Enforcement Officer shall notify the Road Commissioner, Fire Chief, Police Chief, Superintendent of Schools, Board of Selectpersons, and any other relevant official of the proposed development, including, but not limited to, the length of proposed new roadways (if any), and the size and construction characteristics of the structures (if any). The Code Enforcement Officer shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed development.
- d. If the Planning Board decides to hold a public hearing, it shall hold a public hearing within 30 days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least 2 times, the date of the first publication to be at least 7 days prior to the hearing. In addition, the notice of the hearing shall be posted in at least 3 prominent places within the municipality at least 7 days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting property owners and to the applicant, at least 10 days prior to the hearing. Failure to attend the public hearing by the applicant, or applicant's representative, shall constitute grounds for denial of the application.
- e. The Planning Board may vote to continue the Public Hearing to receive additional public comment or information concerning the application. The Planning Board is not required to meet the notice requirements listed above for the continued Public Hearing.
- f. Within 30 days from the conclusion of the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or

within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Planning Board shall make findings of fact on the application, and approve, approve with conditions, or deny the site plan application. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial. If the Planning Board approves or approves with conditions the site plan application, then the written findings of facts shall be the site plan permit.

- g. If a large-scale retail development is proposed, the specific procedures outlined in the Maine state “Informed Growth Act” (Title 30-A M.R.S.A sections 4365 et. seq.) shall be followed.

(2) Submission requirements

The following items shall be submitted as part of the Site Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Section 13 Waivers. Seven (7) copies of all materials shall be delivered to the Town Office. The Planning Board may require additional information be submitted to determine whether the criteria of Section 14.A. above are met.

All required engineering plans shall be submitted to the Anson Code Enforcement Officer in CAD Format 15 or higher, registered and rectified to UTM Zone 19 NAD 83 Meters or Shape Format UTM Zone 19 NAD 83 Meters, and all other documents shall be submitted in both paper and commonly used electronic file formats such as .pdf, word processing, database or spreadsheet files. The applicant may provide reduced-size copies of maps and plans, provided at least one full-size (typically 24" x 36" depending upon readability) set of maps and plans is submitted.

- a. Application form, including applicable fees.
- b. Written evidence that abutting property owners have been notified of the proposed development, including a copy of the notice.
- c. Location map

The location map shall be drawn at a size adequate to show the relationship of the proposed development to adjacent properties, and allow the review authority to locate the development within the municipality. The location map shall show:

1. The date the map was prepared, north point, and graphic map scale.
2. Existing development in the proximity of the proposed development.
3. Locations and names of existing and proposed streets.

4. An outline of the proposed development and any remaining portion of the owner's property if the plan submitted covers only a portion of the owner's entire contiguous holding.
- d. Development plan

The development plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The plan shall be drawn to a scale of not more than 100 feet to the inch. The development plan shall be embossed with the seal of the professional land surveyor and be signed by that individual. Any documents produced by registered engineers must also be signed by those individuals. Space shall be reserved on the development plan for endorsement by the Planning Board. The development plan shall include the following information:

1. Proposed name of the development (if applicable) and the Tax Map(s) and Lot Number(s).
2. A copy of the most recently recorded deed for the parcel. A copy of all current and proposed deed restrictions, easements, rights-of-way, or other encumbrances affecting the property. For public or private open space, include description of management.
3. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
4. The date the plan was prepared, north point, and graphic map scale.
5. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
6. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown.
7. The number of acres within the proposed development, location of property lines (including dimensions and lot areas), vegetative cover type, including the identification of all specimen trees, and other essential existing physical features. On wooded sites, the plan shall indicate the areas where clearing is proposed, and any clearing restrictions or buffer areas proposed.
8. The location of all rivers, streams and brooks within or adjacent to the proposed development. The application shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.

9. The location of all existing and proposed trails, such as, but not limited to, snowmobile and hiking trails.
10. When a site shows soil constraints, such as wetlands or artificial soils from a filled gravel pit, a high intensity soil survey by a registered soil scientist. Wetland areas shall be delineated on the survey, regardless of size.
11. If any portion of the development is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
12. Contour lines at 5 feet intervals, unless otherwise specified by the Planning Board, showing elevations in relation to mean sea level. Post-development finished grade elevations within the site shall also be delineated.
13. An indication of the type of sewage disposal to be used in the development.
  - i. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the public agency providing sewer stating that the system has the capacity to collect and treat the waste water shall be provided.
  - ii. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
14. An indication of the type of water supply system(s) to be used in the development.
  - i. When water is to be supplied by a local well, a written statement from a local well driller shall be submitted indicating there is sufficient water available for the reasonably foreseeable needs of the development.
  - ii. When water is to be supplied by public water supply, a written statement from the servicing public agency providing the water shall be submitted indicating there is adequate supply and pressure for the development, and that the new connections will not create an unreasonable burden upon the water district.
15. The location and size of existing and proposed sewers, water mains, culverts, drainage ways, and power and communication lines on or adjacent to the property in question.
16. The location, names, and widths of existing and proposed streets and highways on or adjacent to the property in question.

17. Street plans, meeting the standards of this ordinance.
18. Location and necessary design details of all parking and paved areas, sidewalks, curbing, fencing, and other site improvements.
19. Description of any raw, finished, or waste materials to be stored on-site, including plans for disposal of solid or liquid wastes and any stored materials of a hazardous nature.
20. The location, front view, materials, dimensions, floor plans, and ground floor elevation of all existing and proposed buildings and building expansions.
21. The location, front view, materials, dimensions, and lighting of existing and proposed signs.
22. The location, type, and dimensions of all existing and proposed lighting.
23. The location of the nearest fire hydrant, dry hydrant, or other water supply for fire protection.
24. The location and method of disposal for land clearing and construction debris.
25. Areas within or adjacent to the proposed development which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the Anson Comprehensive Plan as a unique natural area or high or moderate value wildlife habitat. If any such areas exist, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
26. All areas within or adjacent to the proposed development which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Anson Comprehensive Plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites. If any such sites exist, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
27. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

For all developments estimated to generate peak hour traffic in excess of 100 passenger car equivalents, a traffic impact analysis shall be required. A

registered professional engineer with experience in traffic engineering must conduct the traffic impact analysis.

The traffic impact analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. The purpose of the Traffic Impact Analysis is to assist Planning Board members in determining whether the proposed development shall require improvements to the street(s) providing access to the development. All required traffic improvements shall be implemented at the applicant's expense, and shall be subject to Performance Guarantees as outlined in this ordinance.

28. An erosion and sedimentation control plan prepared in accordance with the most recent edition of the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices*, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District.
29. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection.
30. The following approvals, where applicable, shall be obtained in writing and submitted as part of the application.
  - i. Town of Anson E911 Addressing Officer, for the names of any proposed new streets.
  - ii. Maine Department of Environmental Protection, under the Site Location of Development Act.
  - iii. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
  - iv. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  - v. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

- vi. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- vii. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.
- viii. Comprehensive Economic Impact Study, if a large-scale retail development is proposed.
- ix. Maine Department of Environmental Protection, for grid-scale wind energy developments.

Note: If the Planning Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

(3) Final approval and filing

- a. No plan shall be approved by the Planning Board as long as the applicant(s) is/are in violation of the provisions of a previously approved Plan within the municipality.
- b. Upon findings of fact and determination that all standards in this ordinance have been met, and upon voting to approve the development, the Planning Board shall sign the development plan. One copy of the signed plan shall be retained by the Planning Board as part of its permanent records. One copy of the signed plan shall be forwarded to the tax assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. No plumbing permit shall be issued until the Planning Board signs the development proposal. Any development not recorded in the Somerset County Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.
- c. No changes, erasures, modifications, or revisions shall be made in any site plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless a revised site plan is first submitted and the Planning Board approves any modifications, in accordance with Section 14.D. below. The Planning Board shall make findings that the revised plan meets the criteria of this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- d. The approval by the Planning Board of a development plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street,

easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

**D. Revisions to approved plans.**

An applicant for a revision to a previously approved plan shall submit all materials to the Town Office. The review procedures outlined above shall be followed.

**(1) Submissions**

The applicant shall submit a copy of the approved plan, as well as 7 copies of the proposed revisions. The application shall also include enough supporting information to allow the Planning Board to make a determination that the proposed revisions meet the standards of this ordinance. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the identifying numbers by which the original plan is recorded at the Registry of Deeds.

**(2) Scope of Review**

The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

**E. Permit Expiration.**

Permits shall expire 12 months from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. Upon determining that a development's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Registry of Deeds to that effect.

**15. Non-conformance.**

**A. Purpose.**

It is the intent of this ordinance to promote land use conformities, except that non-conforming conditions existing prior to adoption of this ordinance shall be allowed to continue, subject to the requirements set forth in this section. Except as otherwise provided in this ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**B. General.**

(1) Transfer of Ownership

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this ordinance.

(2) Repair and Maintenance

This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**C. Non-conforming Structures.**

(1) Expansions

A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure.

(2) Relocation

A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all requirements of this ordinance. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

(3) Reconstruction or Replacement

Any non-conforming structure which is damaged or destroyed, regardless of the cause, may be reconstructed or replaced provided that a permit is obtained within 18 months of the date of said damage or destruction. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

(4) Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on

public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access, natural beauty, floodplain management, and archaeological and historic resources.

**D. Non-conforming Uses.**

(1) Expansions

Expansions of non-conforming uses are prohibited.

(2) Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding 1 year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use.

(3) Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access, natural beauty, floodplain management, and archaeological and historic resources.

**16. Development Standards.**

All site plan development activities shall conform with the following provisions, as applicable.

**A. Home Occupation.**

(1) Home occupations are business or commercial activities that are conducted in a dwelling by one or more family members residing in the home. The specific occupation must be compatible with the residential character of both the building and the neighborhood. The home occupation use is designed for low impact business activities that can co-exist with residential neighborhoods without causing noise, odors, excessive traffic or detract from the comfort and expectations of homeowners.

(2) The use of a dwelling shall be clearly incidental to and compatible with the residential use of the property and surrounding residential uses. The home occupation shall be

carried on wholly within the principal building or within a building or other structure accessory to it. The outside storage and processing of materials or products is prohibited.

- (3) The traffic generated by the home occupation shall not create greater traffic than normal for the area in which it is located.

## **B. Street and Site Access.**

The proposed development must accommodate the number and size of vehicles expected to be generated without an undue impact on mobility or safety on public streets.

- (1) Access to the street:

- a. All access points onto a state or state aid highway shall be designed in accordance with the Maine Department of Transportation *Highway Driveway and Entrance Rules*, Maine Administrative Rules, Title 17, Chapter 299. A Driveway, Entrance, or Traffic Movement Permit issued by Maine DOT must be provided by the applicant prior to approval of the development by the Planning Board.
- b. All access points onto a town way or other public way shall be designed to meet “basic safety standards,” as outlined in Part B, section 2.1 of the *Highway Driveway and Entrance Rules*, Maine Administrative Rules, Title 17, Chapter 299.
- c. All access onto public streets shall meet the following standards:
  1. To maintain adequate sight lines, the area adjacent to access points shall be kept free from visual obstructions, including parking stalls, landscaping, and signs above 2 feet in height, within a triangular area defined by legs of 30 feet measured along the driveway and street lines.
  2. Driveways shall be paved with a surface similar to that of the street, from the edge of the existing pavement to the edge of the right-of-way of the street, or to the length of the design vehicle, whichever is greater. All driveways entering curbed streets shall be similarly curbed along the radius of the access point and extending the length of the paved section of driveway.
  3. Pavement radii connecting street and driveway shall be appropriate to the size and turning radius of the design vehicle. The minimum radius for two-way access points shall be 10 feet. The radius for one-way access points or access points with median islands shall be between 5 and 10 feet on the inside corner and a minimum of 30 feet on the outside corner.

4. From the edge of the street, the driveway shall not exceed a grade of 2% for at least 40 feet, or, where a traffic study has been completed, for the full distance of the peak hour predicted queue of vehicles.
5. Inbound and outbound traffic at high volume entrances (as defined by the Maine DOT), and medium volume entrances at the discretion of the Planning Board, shall be separated by median islands. Islands shall be no less than 4 feet in width and shall create a throat (entry and exit lanes) of adequate length based upon the traffic study, but in no case less than 60 feet. Islands may be vegetated with plants selected not to obstruct sight lines, but shall not contain structures or signs within the sight triangle, except as necessary to direct traffic.
6. Separation of access points:
  - i. Access points shall be separated from adjacent access points, including those approved but not yet built, by a minimum of 50 feet, as measured from the near edge of the driveway, excluding radius.
  - ii. Medium volume entrances shall be separated from other medium- or high-volume entrances by a minimum of 75 feet.
  - iii. High volume entrances shall be separated from other high volume entrances by a minimum of 150 feet.
  - iv. Access points shall be aligned exactly opposite those across the street, if possible. If not possible, they shall be separated from opposing driveways according to the criteria above.

(2) Improvements to public streets:

- a. Streets anticipated to carry development traffic shall have sufficient capacity or be suitable improved to accommodate the amount and types of traffic generated by the development. No development shall increase the volume to capacity ratio of a public street above 0.55 nor reduce Level of Service below "C." If a street affected by development traffic currently operates at a Level of Service of "D" or "E" or "F," it shall be suitable improved to achieve a Level of Service of "C" or above.
- b. Intersections shall be of a design and have sufficient capacity to limit the stopping or standing of vehicles attempting to enter the development from the street. Where necessary to ensure safety of drivers and pedestrians and to avoid congestion, the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, bicycle lanes, or other traffic controls within public streets. All improvements to public streets shall conform to standards in the most recent edition of the *Manual on Uniform Traffic Control Devices*, published by

the American Traffic Safety Services Association, and be approved by the Maine DOT Regional Traffic Engineer prior to installation.

(3) The street or street system shall be designed to coordinate with existing, proposed, and planned roads. Where proposed development abuts existing development, the proposed development plan must include at least 2 egress points for traffic accessing the proposed development. This should not be construed to provide every lot or parcel its own individual access to existing roads. Individual lots and parcels should share access to common roads or driveways, and those common roads or driveways should then access existing roads. Wherever a proposed development abuts unplatte land, street stubs shall be provided to gain access to abutting properties or to logically extend the street system.

(4) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.
  - c. On sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately a 30° angle downslope from a line perpendicular to the centerline of the road or driveway.
  - d. Ditch relief culverts shall be sufficiently sized and properly installed to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (5) Ditches, culverts, bridges, dips, water turnouts and other stormwater runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

- (6) The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and 18 inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus 2 feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay or organic matter, reaching a minimum of 6 inches below the bottom of the pipe extending to 6 inches above the top of the pipe.
- (7) Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets in the municipality, and shall be subject to approval by the Planning Board. The developer shall install street name, traffic safety and control signs meeting municipal specifications.
- (8) All street, road, and driveway lighting shall be full-cutoff.
- (9) During road or driveway construction, only that portion necessary shall be cleared of existing vegetation. The entire right of way shall only be cleared if the applicant provides sufficient evidence that construction work, such as installation of utilities, will occur over the entire right of way. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris created during the street construction process.
- (10) No road shall intersect with another road at an angle of less than 60°.
- (11) Where a lot has frontage on 2 or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.

### **C. Parking Site Design.**

The site shall be designed to facilitate the safe and free flow of pedestrians and vehicles while minimizing physical impacts on the land.

- (1) Parking lots shall not be located between the street and the front façade of the building.
  - a. Parking lots shall be buffered from adjoining properties, except for any vehicle, pedestrian, or bicycle connections to the adjoining property.
    1. A minimum buffer width of 20 feet, as measured from the property line, shall be maintained, if the buffer consists of existing woodland.
    2. A minimum buffer width of 30 feet, as measured from the property line, shall be maintained, if the buffer consists of existing non-woodland vegetation.

3. Where a development shares parking or a driveway entrance from a road with an adjoining property, the requirement for buffering is eliminated.

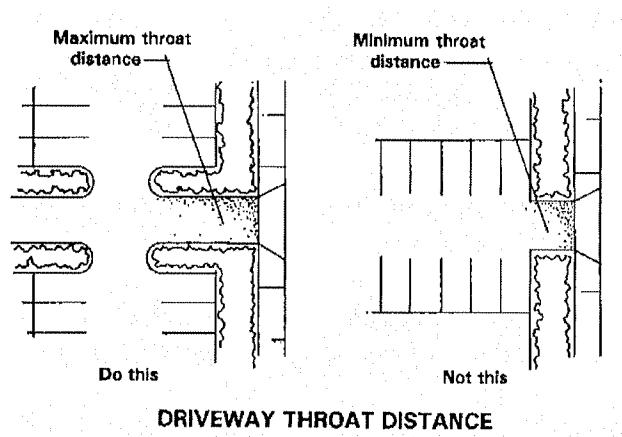
(2) All driveways, aisles, and parking areas shall be designed and constructed to support the intended use:

- a. All areas intended for vehicle circulation and parking shall be constructed with a minimum of 6 inches of gravel meeting Maine DOT spec. 703.06C for subbase and six inches of crushed gravel meeting Maine DOT spec. 703.06A for a surface.
- b. Parking lots or portions thereof expected to experience heavier use, such as serving primarily trucks or heavy-duty equipment, shall be designed to sustain greater loads. Areas so designed shall be surfaced with a minimum of 12 inches of gravel meeting Maine DOT spec. 703.06C for subbase and 6 inches of crushed gravel meeting Maine DOT spec. 703.06A for a base, and paved to a minimum thickness of 4 inches.
- c. Parking lots designed for 12 or more vehicles, or designed for heavy-duty use, shall be paved to a minimum thickness of 4 inches.
  1. Porous paving materials (porous asphalt or pervious concrete) shall be used where available, to aid in the dispersal of stormwater and reduce ice/water buildup in parking areas. Porous pavement must be designed and placed by a licensed contractor certified in the installation of the materials.
  2. If non-porous pavement is used, it shall consist of a bituminous paving mix applied in two lifts. The finish course shall conform to Maine DOT spec. 403.209, 9.5 mm nominal Hot Mix asphalt.
- d. Use of lots for outside storage or sales:
  1. The use of a portion of a parking lot for outside storage or sales of merchandise must be designated on the site plan.
  2. Parking lot sales areas shall be located adjacent to buildings or oriented such that customers may access the area without crossing active traffic lanes.
  3. Outside storage or sales areas shall not obstruct emergency access to the development.
- e. Parking lots must include accommodation for adequate storage of snow on a short-term basis. This snow storage area need not be paved. Wide landscaped aisles could serve as snow storage areas.

(3) The site design shall show that maneuvering and parking of vehicles will take place outside of the street right-of-way and such that vehicles will not stop on or back onto a public street.

a. Driveways shall include a throat area sufficient to deter vehicle conflicts and congestion at the entrances.

1. The throat area shall be designed to stack the average number of vehicles waiting to exit the property during the peak hour of the development. Unless otherwise recommended by a traffic study, the throat shall be a minimum of 20 feet in length, plus an additional 20 feet for every 40 parking spaces, or portion thereof, provided.



2. Parking spaces shall not be accessible along the length of the throat area.
- b. Vehicle aisles will provide access to all parking on the site. All parking spaces must be accessible from an aisle without the necessity of moving other vehicles.
  1. Where a parking lot consists of multiple aisles and tiers of parking spaces, the tiers shall be oriented perpendicular to the face of the building containing the principal entrance, unless another orientation will enhance pedestrian safety.
  2. Two-way aisles shall be a minimum of 24 feet in width. One-way aisles shall be a minimum of 18 feet in width.
- c. Travel lanes shall be located to provide emergency access to all structures on the site and easy access to the rear of all buildings. Upon recommendation by the Fire Chief, the Planning Board may require a fire lane be designated adjacent to any structures or buildings in the development.
- d. Any design that includes the use of vehicular service ("drive-up") windows shall provide queuing space, designed so that it will not interfere with parking and circulation on the remainder of the site.

1. For food service, a minimum of 100 linear feet of queuing space shall be provided on the incoming side of the ordering station or window.
2. For all other types of service windows, a minimum of 60 linear feet shall be provided on the incoming side of each window.
- e. Freight loading or delivery areas must be oriented and designed so that trucks may access them without blocking traffic flow or parking spaces.

(4) If a development adjoins a public road, the developer will plan for or provide connections to adjoining properties.

- a. If adjoining property is undeveloped or is developed with a non-compatible use (see below), the site design shall show an area of land reserved for future interconnection at a suitable location. The applicant shall submit a written commitment to participate in the construction of the connection at such time as it is deemed necessary by the municipality.
- b. If adjoining property is developed with a compatible use, the design shall show the construction of a connecting driveway in a location appropriate to both developments. At a minimum, the connection shall be fully constructed to the property line. The applicant shall make a reasonable effort to negotiate with the owner of adjoining property for completion of the connection.
- c. Adjoining developments are considered compatible if both developments contain retail uses, or if one of the developments is an eating establishment, or if a traffic study shows that more than one percent of traffic generation can be distributed directly between the two developments.
- d. Connections to adjoining properties will not be required if the development will be accessed by a service road, frontage road, or other multi-user private road, or if the development is located within an existing building in a *downtown* district (already built-up area that is clearly walkable).

(5) Developments shall be designed and constructed to be accessible to pedestrian and bicycle traffic.

- a. Pedestrian access to the site shall be provided wherever a development is located in a growth area, as defined in the Anson Comprehensive Plan.
  1. Pedestrian access shall be provided from the street to the principal entrance of the development. This shall consist of at least one travel way dedicated to pedestrians, with a paved travel surface a minimum of 5 feet in width.
  2. Pedestrian ways shall be free of barriers to persons with disabilities for their entire width and length.

3. Where the pedestrian ways crosses vehicle travel lanes, the surface shall consist of textured or stamped bituminous pavement, Portland cement concrete or other construction technique to clearly designate pedestrian priority. Curbing shall be ramped suitable for persons with disabilities.
4. Sidewalks shall be constructed using a base of crushed gravel a minimum of 12 inches of thickness, meeting MDOT spec. 703.06A. Portland cement concrete shall be a minimum thickness of 4 inches, and be reinforced with six-inch mesh, number 10 reinforcing wire. Bituminous surface shall be a minimum thickness of 2 inches and shall conform to MDOT spec. 403.209, 9.5 mm nominal Hot Mix asphalt.

- b. Wherever the property to be developed adjoins property with an existing sidewalk, the developer shall continue that sidewalk for the entire length of the property to be developed. Existing sidewalks on property to be developed shall be rebuilt or improved as necessary to meet the standards of this ordinance.
- c. Accommodation for bicycle access to the site shall be provided wherever a development is located in a growth area, as defined in the Anson Comprehensive Plan. Accommodation shall include a designated bicycle lane or trail through the site and a bicycle parking facility containing at least 4 bicycle parking spaces for every 40 vehicle parking spaces, or portion thereof.
  1. A designated bicycle lane or trail shall be a minimum of 4 feet in width, graded, and surfaced with stone dust, asphalt, or similar material.
  2. Each bicycle parking space shall consist of a hard-surfaced area 2 feet in width by 6 feet in length, equipped with a structure suitable for securing a bicycle. Alternative bicycle parking space designs may be approved, provided they offer suitable space and security. All bicycle parking spaces must be clearly marked to prohibit encroachment by motor vehicles.
  3. Required vehicle parking spaces may be reduced in exchange for additional bicycle parking. For every 4 bicycle parking spaces in excess of the requirements of this ordinance, 2 vehicle parking spaces may be eliminated from the minimum required by this ordinance.

(6) A minimum of 10 percent of the overall parking area shall be devoted to interior vegetated landscaping.

- a. In parking lots containing 40 or more parking spaces, landscaped aisles shall be required, to restrict driving movements diagonally across parking bays and provide opportunities for stormwater management. Landscaped aisles shall be sufficient to divide the lot into multiple smaller cells of no more than 20 spaces each.

1. Landscaped aisles shall have a minimum width of 15 feet, if containing a pedestrian walkway, or 10 feet if consisting entirely of vegetation.
- b. Landscaping must consist of native vegetation.
- c. A landscaping plan must provide for regular maintenance and replacement, as necessary.

(7) All parking area lighting shall be full-cutoff.

#### **D. Parking Supply.**

The development must provide vehicle parking for employees and customers sufficient to avoid congestion of public streets or parking facilities.

- (1) The design of vehicle parking spaces shall be consistent with the type of vehicle most likely to use them.
  - a. Parking stalls for head-in parking shall be a minimum of 9 feet in width by 18 feet in length. Stalls may be angled up to 45 degrees, provided aisles are designated one-way, and each stall contains a rectangular area of at least 9 feet by 18 feet.
  - b. Stalls for parking parallel to a travel lane shall be no less than 9 feet in width by 22 feet in length.
  - c. Stalls designated for use by persons with disabilities shall be separated by a minimum of 5 feet from adjoining stalls. The separation must be clearly marked to discourage vehicle encroachment.
  - d. Oversized parking spaces shall be provided for uses that ordinarily serve such vehicles as recreational vehicles, travel trailers, delivery trucks or tractor-trailer trucks.
  - e. In paved lots, parking stalls shall be delineated by pavement markings a minimum of 4 inches in width. Where double lines are used, they should be separated a minimum of 12 inches on center.
- (2) The development shall provide adequate supply of parking. Minimum standards are listed below, subject to adjustments as outlined in this ordinance.

Number of Spaces	Land Use Activity
<b><i>Places of Residence or Accommodation</i></b> -- spaces per room or dwelling unit	
0.25	Dedicated Retirement Home, Nursing Care Facility
1	Overnight accommodations
1.5	Multifamily buildings
<b><i>Places of Public Assembly</i></b> -- spaces per seat based on maximum seating capacity	
0.25	Theater, spectator sports venue
0.33	Place of Worship, Restaurant (except fast food)
0.5	Convention Center, Meeting Hall, Fraternal Building, Bottle Club
<b><i>Places of Commerce and Industry</i></b> -- spaces per 1,000 sq. ft. of gross floor area	
0.5	Warehouses, including self-storage
1	Industrial and Manufacturing Facilities, furniture and appliance stores
2	Grocery Stores over 5,000 sq. ft.; Offices, except as noted
2.5	Retail Sales (except as noted), Fitness and Recreation Centers
4	Banks, Medical, Dental, and Veterinary Offices, Child Care
4	Fast food restaurant, snack bar
<b><i>Public and Institutional Facilities</i></b> -- spaces per 1,000 sq. ft. of gross floor area	
2	Elementary Schools, Library, Museum, Hospital
4	Secondary Schools and Colleges (classroom buildings only), Community Center, Municipal Office
<b><i>Miscellaneous</i></b> -- criteria as specified	
15 per developed acre	Mini-golf, Go-Carts, and other Outdoor Amusements
2 per hole	Golf Course
2 per lane	Bowling Alley
2 per service bay + 1 per 20 vehicles displayed	Motor Vehicle Sales or Service

- a. Within each development, at least one space, plus one additional space for every 25, or portion thereof, required, shall be designated as available for persons with disabilities.
- b. Where the proposed development is for expansion of or addition to an existing use, the requirement for parking spaces will include sufficient spaces for the existing use, even if the existing use did not previously have sufficient spaces.

- c. Where a building or use consists of multiple segregated uses, such as a factory with retail outlet, a bowling alley with restaurant, or college with office and classroom buildings, each separate area shall be calculated independently and summed to arrive at the required parking supply.
- d. When a development has been approved for construction in phases, the Planning Board may permit phased installation of parking supply, provided the parking is completed in the same timeframe as its corresponding building phase. The performance guarantee for the parking shall contain a schedule showing the construction phase or development conditions under which the required parking shall be provided.
- e. Required parking shall not be occupied by vehicles associated with the ordinary conduct of the business, such as construction equipment, storage trailers, or vehicles displayed for sale.

(3) To reduce the costs and environmental impact of development, the amount of land devoted to impervious surface for parking shall be minimized. Paved parking spaces shall not exceed the minimum requirements outlined in this ordinance by more than 10 percent.

- a. Within a mixed-use development consisting of any residential use combined with any commercial use, the Planning Board may eliminate space requirements for the residential use until the residential use comprises more than 2/3 of the total floor space. If the residential use covers more than 2/3 of the total floor space of the development, adequate parking must be provided for both the residential and commercial uses.
- b. The Planning Board is permitted to reduce the required number of parking spaces if a parking analysis shows that similar uses under similar circumstances generate less demand at the *30<sup>th</sup> highest hour*.
- c. Within a growth district, as defined in the Comprehensive Plan, if the provided off-street parking will not be posted for the exclusive use of customers, employees, or tenants of the development, the Planning Board may reduce the minimum requirement by up to 20 percent.
- d. The Planning Board may permit some or all of the parking requirement to be met by the provision of parking spaces not located on the same lot, provided that, a) spaces are located within 500 feet of the development and accessible by an existing or proposed sidewalk, b) a written agreement is in place for long-term use of the spaces for the proposed use, and c) the spaces would not be among the minimum required for the use already existing on that lot.

e. Where a proposed development will share parking with another existing or proposed development, and these developments have opposing peak parking demands, the Planning Board may grant a reduction of up to 50 percent of the parking space requirement. For example, an office building with weekday daytime peak parking demands, and a recreational facility with night and weekend peak parking demands.

(4) Loading/delivery bays shall be provided as necessary.

- a. Space devoted to a loading bay shall be no less than 12 feet by 55 feet.
- b. Loading bays shall be located where they will not interfere with traffic on public ways.

#### **E. Signs.**

(1) Signs relating to goods and services sold on the premises are allowed, provided that such signs shall not exceed 32 square feet in area and 3 signs per premises.

Signs relating to goods or services not sold or rendered on the premises are prohibited.

(2) Name signs are allowed, provided such signs shall not exceed 2 signs per premises, and shall not exceed 12 square feet in area in the aggregate.

(3) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed 2 square feet in area.

(4) Signs relating to public safety shall be allowed without restriction to size or number of signs per parcel.

(5) No sign shall extend higher than 20 feet above the ground.

(6) Any free-standing sign which advertises a business conducted, product sold, or activity no longer in existence, or which, through lack of maintenance or other reason, becomes a hazard shall be removed by the owner, agent, or person responsible for the lot upon which the sign is located.

#### **F. Management of Open Space.**

(1) All common open space land, facilities, and property shall be owned by:

- a. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or

- b. The municipality.
- (2) Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, is prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

## **G. Stormwater Management.**

- (1) All new construction and development shall be designed to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Any increase in stormwater flow shall not create soil erosion, flooding, property damage, damage to natural resources or create safety hazards to downstream properties. Low-impact development techniques should be utilized, including retaining existing or creating natural runoff control features, such as berms, swales, terraces and wooded areas.
- (2) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

## **H. Water Quality.**

- (1) No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- (2) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- (3) Any development proposed within a Sand and Gravel Aquifer or significant bedrock aquifers as identified in the Anson Comprehensive Plan shall be designed and constructed so as not to cause any pollution or contamination of the aquifer. A ground water protection plan developed by a certified hydrologist shall be required for the following development proposals:
  - a. Any industrial use.
  - b. Any manufacturing facility.
  - c. Auto junkyard.
  - d. Auto repair facility.
  - e. Chemical storage or processing facility.
  - f. Oil or fuel storage facility.
  - g. Truck repair.

- h. Any structure with oil, fuel or chemical storage that exceeds a total of 1,000 gallons for the entire site.

(4) When a hydrogeologic assessment is required, the assessment shall contain at least the following information:

- a. A map showing the basic soil types.
- b. The depth to the water table at representative points throughout the development.
- c. Drainage conditions throughout the development.
- d. Data on the existing ground water quality, either from test wells or existing wells on neighboring properties.
- e. An analysis and evaluation of the effect of the development on ground water resources. In the case of residential development, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision boundaries, or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
- f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the development and within 200 feet of the development boundaries.

## **I. Water Supply.**

Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

- (1) Due to the increased chance of contamination from surface water, dug wells are prohibited on lots of smaller than 1 acre. On lots of 1 acre or smaller, the applicant shall prohibit dug wells by deed restrictions.
- (2) Wells are prohibited within 100 feet of the traveled way of any street.

## **J. Waste.**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules.
- (2) No permit shall be issued for any structure or use involving construction, or alteration of plumbing facilities unless a valid Plumbing Permit has been secured by the applicant in accordance with the Maine Subsurface Wastewater Disposal Rules and the Internal Plumbing Rules. This includes the applicant submitting evidence of site suitability for subsurface sewage disposal.
  - a. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for

future replacement of the disposal area. The reserve area shall be shown on the development plan and restricted in the deed so as not to be built upon.

- b. In no instance shall a disposal area be on a site which requires a New System Variance from the subsurface wastewater disposal rules.
- (3) The development shall provide for the disposal of all solid wastes on a timely basis and in an environmentally safe manner. The development will not produce wastes that exceed the capability of the transfer station, in either volume or type of waste. Any toxic, hazardous, or special waste must be disposed of in compliance with state and federal regulations and in a manner approved by the Planning Board.
- (4) At the time of application, the developer shall specify the amount and exact nature of all industrial or chemical wastes to be generated by the development, and a plan to discharge such wastes only and in such quantities and/or quality as to be able to be accepted into the disposal system or shipped to an approved facility off-site. All such plans shall be in conformance with applicable state and federal regulations.

#### **K. Soils.**

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

#### **L. Erosion and Sedimentation Control.**

- (1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
  - a. Mulching and revegetation of disturbed soil.
  - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

- c. Permanent stabilization structures such as retaining walls or rip-rap.
- (2) To create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- (4) Any exposed ground area shall be temporarily or permanently stabilized within 1 week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within 9 months of the initial date of exposure. In addition:
  - a. Where mulch is used, it shall be applied at a rate of at least 1 bale per 500 square feet and shall be maintained until a catch of vegetation is established.
  - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
  - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainageways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed to carry water from a 25 year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- (6) All erosion controls must be inspected and repaired every week and before and after any significant rainfall events (0.5 inches or greater).
- (7) The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property.

## **M. Agriculture.**

- (1) Following the Maine Agriculture Protection Act (7 M.R.S.A. sections 151 through 161), a farm, farm operation, or agricultural composting operation may not be considered a nuisance, nor may said operation violate this ordinance, if it follows the conditions of the Act.

- (2) Agricultural practices should follow the most recent edition of the *Manual of Best Management Practices for Maine Agriculture*, published by the Maine Department of Agriculture, Food & Rural Resources.
- (3) All spreading of manure shall be accomplished in conformance with the most recent edition of the *Manure Utilization Guidelines* published by the Maine Department of Agriculture, Food & Rural Resources, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (4) If there are any issues with the manner in which agricultural practices are conducted, the practices shall be investigated following the *Rules for the Agricultural Compliance Program*, published by the Maine Department of Agriculture, Food & Rural Resources.

#### **N. Mineral Exploration and Extraction.**

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures to restore disturbed areas and to protect the public health and safety.

Applications to the planning board for a five-year mineral extraction permit shall include the following elements:

- (1) A site plan including the following features:
  - a. Topography indicating not greater than ten (10) foot contour intervals, based on USGS data.
  - b. The location and slope of grades existing and proposed upon completion of the extraction operation.
  - c. Proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits.
- (2) A written statement of the proposed operating procedure and working hours.
- (3) A five-year plan, showing new areas to be mined, and old areas to be reclaimed, together with estimates of volumes to be extracted, and detailed plans for reclamation of completed excavation.
- (4) The planning board may require a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality in the vicinity.

#### **Mineral Extraction Standards**

- (5) No part of any extraction operation shall be permitted within 100 feet of any property

or street line.

- (6) No slopes steeper than 2 feet horizontal to 1 foot vertical (2:1) shall be permitted at any extraction site.
- (7) The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to accepted Best Management Practices.
- (8) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The developer shall obtain written approval from the Maine Department of Environmental Protection, and/or the Department of Inland Fisheries and Wildlife, as applicable.
- (9) The hours of operation at any extraction site may be limited, if necessary to ensure operational compatibility with neighboring residences.
- (10) All access points from the extraction site to public roads shall be treated with suitable materials to reduce dust and mud for a distance of at least 100 feet from such public roads.
- (11) The five-year reclamation plan shall show that within twelve (12) months following the completion of extraction operations at a site, ground levels and grades shall be established so that the restored drainage exits the site resembling pre-development volumes and locations. "Completion" means when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period. Debris, stumps, boulders, and similar materials shall be removed and disposed of on the property in an approved location or, in the case of inorganic material, buried and covered with a minimum of two (2) feet of soil. Only materials generated on-site may be buried or covered.

Final slopes shall not be steeper than two feet horizontal to one vertical (2:1). All stormwater drainage patterns shall be restored to their pre-development standards, such that any water exiting the site shall closely resemble pre-development volume and location. The reclamation plan shall include a stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection.

Any mineral extraction process in lawful operation as of the effective date of this ordinance, must comply with the provisions for a permit within five (5) years. Within ninety (90) days of the enactment of this ordinance, the Code Enforcement Officer shall notify, by certified mail, return receipt requested, the owners of all property which, to the best of his or her knowledge, contain existing operations, informing them of the requirements of this Section.

Discontinuation of any existing operation for a period of more than two (2) years shall result in the operation being required to apply for a site review permit as if it were a new development. Discontinuation is defined as the excavation, processing, or movement of less than two hundred (200) cubic yards of material within any two (2) year period.

## **O. Storage of Materials.**

- (1) All materials stored outdoors shall be stored in such a manner to prevent the breeding and harboring of insects, rats, or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures, or other means.
- (2) All outdoor storage areas, including areas used for the storage or collection of solid waste, automobiles, auto parts, building materials, machinery, or other such items, shall have screening sufficient to minimize impact on roads, and neighboring and other properties in the area. Walls, fencing, dense plant material, or a combination of techniques can be used to achieve this intent.
- (3) Where a potential safety hazard to children is recognized by the planning board, a physical barrier sufficient to deter small children from entering the area shall be provided and maintained in good condition.
- (4) The storage of all flammable or explosive liquids, solids, or gases shall be allowed and all materials shall be stored in compliance with requirements of the Maine Department of Public Safety and other appropriate Federal and State regulations.

All above-ground storage facilities for toxic, flammable, or explosive liquids shall be located on impervious surfaces and shall be completely enclosed by a dike high enough to contain the total capacity of the storage tank(s) plus the rain falling into the area during a twenty-five (25) year, 24-hour duration storm, or 150 percent of the volume of the storage facility, whichever is greater.

## **P. Automobile Graveyards and Junkyards.**

- (1) All automobile graveyards, automobile recycling businesses and junkyards shall be licensed in accordance with Title 30-A M.R.S.A. Sections 3751 through 3760.
- (2) Any new automobile graveyard, automobile recycling business and junkyard shall first obtain a permit as required by this ordinance, and after obtaining such approval shall obtain a permit from the Board of Selectpersons. A permit from the Board of Selectpersons shall be issued in accordance with Title 30-A M.R.S.A., Sections 3751 through 3760.
- (3) All applications reviewed by the Planning Board after the effective date of this ordinance shall meet the following requirements:

- a. The area used for the facility shall be set back a minimum of 100 feet from all property lines.
- b. A buffer consisting of vegetation, fences or berms or any combination thereof shall be installed, or if naturally existing shall not be removed, along all property lines and shall be capable of providing a year-round screen to a minimum height of 8 feet.

(4) The Board of Selectpersons, prior to consideration of the permit for a automobile graveyard, automobile recycling business or junkyard according to Title 30-A M.R.S.A. Sections 3751 through 3760, may request that the Planning Board and/or the Code Enforcement Officer review the application and site for compliance with this ordinance and the State Law and Regulations. The Planning Board and/or the Code Enforcement Officer shall report their findings to the Board of Selectpersons.

#### **Q. Archaeological, Historic, Scenic and Rare Natural Areas.**

If any archaeological, historic, wildlife habitat, scenic or rare and natural areas are located in the tract or parcel of land being proposed for development (as defined and/or identified by either the Anson Comprehensive Plan or a state agency), a protection plan shall be developed in accordance with the following:

- (1) If any portion of the developed area is listed on, or eligible to be listed on the National Register of Historic Places, the proposed land use activity shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment. The applicant shall submit the Commission's comments with the final development plan.
- (2) If any portion of the developed area is designated as a significant archaeological or historic site by the Maine Historic Preservation Commission or Anson Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
- (3) If any portion of the developed area is located within an area designated as a scenic area or unique natural area by the Beginning with Habitat Program or the Anson Comprehensive Plan, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
- (4) If any portion of the developed area is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries & Wildlife or a qualified biologist and develop measures to protect these areas from environmental damage and habitat loss. Wildlife areas include the following:
  - a. Habitat for or endangered species appearing on the official state or federal lists of endangered or threatened species.

- b. Moderate or high value waterfowl and wading bird habitat, including nesting and feeding areas, as defined by the Maine Department of Inland Fisheries and Wildlife.
- c. High and moderate value deer wintering areas and travel corridors as defined by the Maine Department of Inland Fisheries and Wildlife.

## **R. Telecommunication Facilities.**

- (1) New towers shall be designed to accommodate and facilitate multiple uses, such as co-location of cell phone communication networks.
- (2) The maximum height is 200 feet.
- (3) All commercial operations shall install tubular, monopole-type towers.
- (4) No external lights are allowed, except as required by the Federal Aviation Administration or other applicable authority.
- (5) All systems shall be installed and maintained to meet all federal, state, local, industry, and manufacturer standards, specifications and accepted practices. The applicant shall submit safety and stability data from test facilities or other operating towers, if available.
- (6) The applicant shall provide all connections to the existing utility network.
- (7) Colors and surface treatment of the tower shall minimize visual disruption.
- (8) Towers shall not display advertising, except for reasonable identification of the manufacturer or operator of the tower.
- (9) A tower that is not in operation for a continuous period of 12 months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing, and order the removal of the facility within 90 days of receipt of the written notice. Removal of the facility includes proper disposal of the tower and all accessory structures and equipment, according to local and state solid waste disposal regulations. The owner shall have 30 days from receipt of the notice to demonstrate to the Code Enforcement Officer that the facility is not abandoned.

After the 90 day period has expired, with the owner neither removing the facility, nor demonstrating that the facility is in use, the municipality shall remove the facility at the owner's expense.

## **S. Wind Energy Generating Facilities.**

(1) Applications to the Planning Board for a wind energy generating facility permit shall include the following elements:

- a. Description of the proposed wind energy development including an overview and approximate generating capacity of the project, the number, type(s), make(s), model(s), picture and manufacturer's specifications, noise characteristics, a description of associated facilities, and data pertaining to the wind turbine's safety and stability, including safety results from test facilities.
- b. A site plan showing the location of each proposed wind turbine, property lines, roads, driveways, right of ways, overhead utility lines, and buildings including their purpose. The site plan must additionally show access road and turnout locations, substation(s), electrical cabling from the wind energy development to the substation(s), ancillary equipment, buildings and structures, including permanent meteorological towers, associated transmission lines, and layout of all structures.
- c. A survey map showing within 2,500 feet of the proposed wind energy development any parks and other designated areas considered locally important in a Comprehensive Plan or Open Space Plan, recognized historic sites and important bird areas as identified by the Maine Beginning with Habitat Program.
- d. A landscape plan showing all proposed changes to the site, including temporary or permanent roads or driveways, grading, vegetation, clearing and planting.
- e. Structural drawings from the manufacturer or engineer showing foundation and anchor design.
- f. Sound level analysis prepared by the wind turbine manufacturer or a qualified engineer.
- g. A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.
- h. Emergency and normal shutdown procedures.
- i. Evidence that the provider of electrical service to the property has been notified of the intent to install an interconnected electricity generator.
- j. Decommissioning documents.
- k. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.

1. Results from shadow flicker modeling software approved by the Department of Environmental Protection.
- m. Sight lines, photographs, and elevations.
  1. A sight line representation shall be drawn from representative locations that show the lowest point of the tower visible from each location. These locations shall include a sight line representation from the closest occupied building to the applicable wind energy development and any public road or public area within 300 feet. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. There shall be at least two sight lines from the closest occupied building or public roads or areas included in the application.
  2. Photographs of existing conditions on site, and manipulated photographs showing post-development conditions.
  3. Elevations of all structures on property.
- n. A plan for maintenance of access roads and stormwater control mechanisms, as well as general procedures for operational maintenance of the wind energy development.
- o. Copies of all proposed leases required to be secured by the applicant. Boundaries of said leases shall be clearly illustrated on the site plan.

(2) Wind Energy Generating Facilities Standards.

- a. Wind turbines shall be set back from the nearest occupied building a distance not less than 4 times the turbine height or 1,000 feet, whichever is greater.
- b. The design of the wind energy development shall conform to applicable industry standards, including those of the American National Standards Institute and shall comply with at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.
- c. All wind turbines shall be equipped with redundant braking systems. This includes both aerodynamic overspeed controls and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- d. All ground-mounted electrical and control equipment and all access doors to wind turbines shall be labeled and secured to prevent unauthorized access. Wind towers shall not be climbable up to 15 feet above the ground.

- e. The minimum distance between the ground and any blades of a free standing wind turbine shall be 25 feet as measured at the lowest arc of the blade.
- f. A free-standing wind turbine tower shall be a monopole without guy wires.
- g. Wind energy developments shall be designed and turbines sited to avoid unreasonable adverse shadow flicker effects on any occupied building at the time of application.
- h. Wind turbines shall be a non-obtrusive color such as white, off-white, or grey.
- i. Wind turbines shall not be artificially lit, except for state or federal requirements.
- j. Wind turbines shall not include advertising or signs, except for reasonable identification of the manufacturer, facility owner, and operator, and for warnings.
- k. Wherever possible, wind energy developments shall be located to make maximum use of existing vegetation and structures for visual screening.
- l. Whenever possible, wind energy developments should be located at the edge of clear public views, rather than dominating the center of the view.
- m. Audible sound from wind energy developments shall not exceed 50 dBA, as measured at the property line.
- n. The wind energy development shall avoid, to the extent possible, the creation of artificial habitat for raptors or raptor prey, such as electrical equipment boxes on or near the ground that can provide shelter and warmth, or horizontal perching opportunities.
- o. The wind energy development shall not significantly compromise views from a scenic resource of state or national significance.

(3) A tower that is not in operation for a continuous period of 12 months shall be considered abandoned. The Code Enforcement Officer shall notify the owner of an abandoned facility in writing, and order the removal of the facility within 90 days of receipt of the written notice. Removal of the facility includes proper disposal of the tower and all accessory structures and equipment, according to local and state solid waste disposal regulations. The owner shall have 30 days from receipt of the notice to demonstrate to the Code Enforcement Officer that the facility is not abandoned.

After the 90 day period has expired, with the owner neither removing the facility, nor demonstrating that the facility is in use, the municipality shall remove the facility using the performance guarantee provided at the time of application.

- (4) The facility shall be decommissioned at the end of its useful life. Decommissioning shall include removal of all turbines, accessory structures, cabling, electrical components, and foundations to a depth of 36 inches. The facility shall reach the end of its useful life when no electricity is generated for a continuous period of 12 months.

The Code Enforcement Officer shall notify the owner of a wind turbine that has reached the end of its useful life in writing, and order its decommissioning within 90 days of receipt of the written notice. The owner shall have 30 days from receipt of the notice to demonstrate to the Code Enforcement Officer that the facility has not reached the end of its useful life.

After the 90 day period has expired, with the owner neither decommissioning, nor demonstrating that the turbine is in use, the municipality shall decommission the turbine using the performance guarantee provided at the time of application.

- (5) An independent and certified professional engineer shall be retained to estimate the total cost of decommissioning the facility. Said estimate shall be provided to the municipality at time of application, and every five years thereafter.

The applicant shall provide a Performance Guarantee that will cover an amount equal to that estimated for the total cost of decommissioning. The applicant shall modify the Performance Guarantee amount every five years based upon the new calculation.

## **T. Outdoor Lighting.**

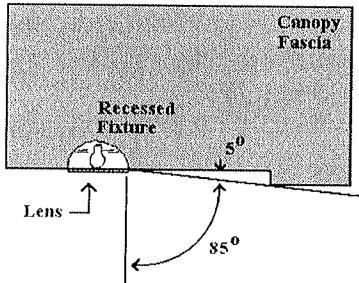
- (1) The following types of outdoor lighting are specifically prohibited.
  - a. Lighting that could be confused for a traffic signal device.
  - b. Searchlights, beacons, and laser source light fixtures.
  - c. Lights that blink, flash, move, revolve, flicker, change intensity or change color.
  - d. Lighting inside of an awning when the awning material is translucent.
- (2) Lighting must be designed so that the illumination at the property boundary line that is attributable to the subject property does not exceed 0.5 foot-candles.
- (3) Free-standing lighting fixtures must not be taller than 20 feet.
- (4) Building-mounted lighting fixtures must not be attached to sloped roofs, and must not be taller than 30 feet, or the height of the principal building, whichever is less. This lighting must be directed downward, along the plane of the building, and not outward away from the building. The use of wall-mounted unshielded lighting (e.g. "wall-pack") is prohibited.

- (5) Light poles must be anodized, painted, or otherwise coated to minimize glare from the light source.
- (6) Lighting in vehicle parking areas containing 20 parking spaces or more must be reduced to 50% of permitted levels one hour after the business closing to one hour before the business opens. If lighting levels are already below 50% of permitted levels, no adjustment is required.
- (7) Full-cutoff lighting is required for all outdoor lighting fixtures. Post top luminaires (“period lighting”) are allowed only when the developer can demonstrate the historic value to having this type of lighting. All post-top luminaires must have a cover on top, such that no light is directed directly upward.
- (8) Average lighting levels must not exceed the standards provided for in the following table. An average to minimum uniformity ratio of 4:1 must be maintained.

Maximum Average Light Levels	
Location	Foot-candles
At building entries	5
At loading areas	8
Parking areas	5
Along sidewalks and other pedestrian areas	3
Under service station canopies	8
In general storage areas	5
In vehicular display areas	8

- (9) Public statues, memorials, monuments, state flags, flags of the United States, and flags of foreign nations may be illuminated from the ground, provided the following standards are met:
  - a. Upward-aiming lights must be placed as close to the flag pole base as possible.
  - b. The lights must be shielded, such that light is only directed at the flag, and does not cause visual glare.
  - c. The lights must not collectively exceed 20,000 lumens.
- (10) Signs may be internally lit or lit from above only.
- (11) Lighting associated with a canopy used for a vehicular shelter must meet the following standards:

- a. Lights beneath a canopy must not project below the bottom of the canopy surface (see image below, courtesy International Dark-Sky Association).



- b. The sides and top of the canopy must not be illuminated.
- c. Lighting beyond the perimeter of the canopy must be consistent with the lighting standards for parking areas.

## 17. 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, stream, river, 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 Structure or Use** - A use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

**Agriculture** - The production, keeping or maintenance for sale or lease, of plants and/or animals, including, but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products.

**Applicant** – The person applying for approval under this ordinance.

**Automobile Graveyard or Junkyard** – A yard, field or other area used as a place of storage for three or more unserviceable, discarded, worn-out or junked motor vehicles as defined in Title 29-A M.R.S.A. Section 101, or parts of such vehicles. The definition includes discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture, scrap or junked lumber, copper, brass, rope, rags, paper, trash, rubber debris, waste, and all scrap iron, steel and other ferrous or non-ferrous material. The definition also includes an area used for automobile dismantling, salvage and recycling operations. The

definition excludes any area used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable. Temporary storage shall not exceed 90 days.

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

**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.

**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.

**Design Vehicle** – The type of vehicle most likely to use the development.

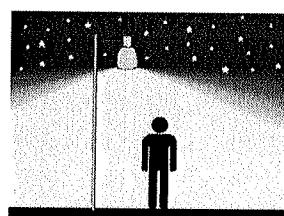
**Developed Area** – Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Development** – A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

**Driveway** - A vehicular access-way serving two lots or less.

**Foot-candle** – A measure of light falling on a given surface. One foot-candle is equal to one lumen per square foot.

**Full-cutoff Light** – A lamp where all light is directed down towards the ground, and no light is directed up into the sky (graphics below courtesy The University of Texas McDonald Observatory).



Full-cutoff Light



NOT full-cutoff

**Grid-scale Wind Energy Development** – A wind energy development that is of a size that would qualify as a development of state or regional significance that may substantially affect the environment, as defined in 38 M.R.S.A. section 482 subsection 2.

**High Intensity Soil Survey** – A map prepared by a certified soil scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the development plan submitted. The

soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

**Impervious Area** – An area of land that has been covered by an impervious surface.

**Impervious Surface** – A low-permeability material, such as asphalt, brick, concrete, or gravel which has been or will be compacted through design or use to reduce its 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.

**Large-scale Retail Development** – A development as defined in 30-A M.R.S.A. section 4366.

**Level of Service (LOS)** – A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are 6 levels of service, ranging from A, with free traffic flow and no delays to F, with forced flow and congestion resulting in complete failure of the roadway (“bumper to bumper traffic”).

**Lumen** – A measure of light energy generated by a light source. Manufacturers list ratings for all their lamps.

**Mineral Exploration** - Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

**Mineral Extraction** - Any operation within any 12 month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

**Non-conforming Condition** – Non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

**Non-conforming Structure** - A structure which does not meet any one or more of the following dimensional requirements: setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Non-conforming Use** - Use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

**Road** - A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined. In this ordinance, street has the same meaning as road.

**Road Frontage** – The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

**Sight Distance** – The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway.

**Tower** – A lattice or tubular structure, greater than 35 feet tall, supporting items such as, but not limited to, cell phone communication networks and wind turbines.

