



**Town of Lebanon**  
**SITE PLAN REVIEW ORDINANCE**

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## **Town of Lebanon Site Plan Review Ordinance**

### **A. Purpose**

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

### **B. 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, the more restrictive provision shall control.

### **C. Applicability**

The owner of a parcel of land shall obtain site plan approval prior to commencing any of the following activities on the parcel, obtaining a building or plumbing permit for the activities, or undertaking any alteration or improvement of the site including grubbing or grading:

1. The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures.
2. The expansion of an existing nonresidential building or structure including accessory buildings that increase the total floor area.
3. The conversion of an existing building, in whole or in part, from a residential use to a nonresidential use.
4. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, golf courses, and other nonstructural nonresidential uses.
5. The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use if the new use changes the basic nature of the existing use such that it increases the intensity of on- or off-site impacts of the use subject to the standards and criteria of site plan review described in section XX of this Ordinance.
6. The construction of a residential building containing three (3) or more dwelling units (Multiplex housing) and eldercare facilities.
7. Modification or expansion of an existing residential structure that increases the number of dwelling units in the structure by three (3) or more in any five (5) year period.
8. The conversion of an existing nonresidential use, in whole or in part, into three (3) or more dwelling units within a five (5) year period.
9. The construction or expansion of a paved area or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than two thousand

five hundred (2,500) square feet within any three (3) year period.

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

1. Agricultural activities, including agricultural buildings and structures.
2. Timber harvesting and forest management activities.
3. The establishment and modification of home occupations that do not result in changes to the site or exterior of the building.
4. Activities involving nonresidential buildings or activities that are specifically excluded from review by the provisions of this section.

**D. Administration and Enforcement**

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

**E. Review and Approval Authority**

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

In each instance where the Planning Board is required to review the site plan for a proposed use, it shall approve, deny, or conditionally approve the application based on its compliance with the standards in Sec. F, Approval Standards, which action shall be binding upon the applicant.

The Planning Board, by a majority vote, may delegate the CEO as the reviewing and approval authority for specific uses and activities.

**F. Review Procedures**

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

**1. Workshop**

Prior to submitting a formal application, the applicant shall schedule a pre-application workshop with the Planning Board. The pre-application workshop shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan to be a pending application. No decision on the substance of the plan shall be made at the pre-application workshop. The applicant is encouraged to meet informally with the Town CEO prior to the workshop.

The purposes of the pre-application workshop are to:

- a) Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal
- b) Allow the applicant to understand the development review process and required submissions
- c) Identify issues that need to be addressed in future submissions.

There are no formal submission requirements for a pre-application workshop. However, the applicant should be prepared to discuss the following with the Planning Board:

- a) The proposed site, including its location, size, and general characteristics
- b) The natural characteristics of the site that may limit its use and development
- c) The nature of the proposed use and potential development, including a conceptual site plan
- d) Any issues or questions about existing municipal regulations and their applicability to the project
- e) Any requests for waivers from the submission requirements.

The Planning Board workshop shall be informational and shall not result in any formal action. The Planning Board shall identify any issues or constraints which need to be addressed in the formal site plan application.

## **2. Application Review Procedures**

The applicant must prepare and submit a site plan review application, including the development plan and supporting documents that meet the submission requirements set forth below along with an application fee. This material must be submitted to the CEO.

### **Completeness**

After an application has been submitted with the requisite fees, and after any required Board of Appeals approval has been obtained, the Town CEO shall accept and date an application for Planning Board review. In consultation with the Planning Board Chair or Vice Chair, the Town CEO shall review the site plan application and accompanying materials to determine whether the application is complete or incomplete. If, in consultation with the Planning Board Chair or vice Chair, the application is preliminarily determined to be incomplete, the Town CEO shall notify the applicant in writing and shall list in the written determination the materials that must be submitted in order to make the application complete. If the applicant fails to submit a complete application within four (4) months of the written determination of incompleteness, the application shall be deemed withdrawn. When the Town CEO makes the preliminary determination that an application is complete, the application shall be scheduled for consideration at the next available Planning Board meeting. The Planning Board may require other information in addition to that required under Submission Requirements. The Planning Board may also request an evaluation of specific aspects of the site plan from the Conservation Commission, or others. In the event that the Planning Board requires additional information or evaluation, it may deem the application incomplete. No action taken by the CEO, either alone or in consultation with the Planning Board chair or vice Chair, with respect to reviewing a site plan application, shall result in an application being deemed pending for the purposes of 1 M.R.S.A. §302. The Town CEO, either alone or in consultation with the Planning Board Chair or Vice Chair, shall have no authority to review the substance of a site plan application to determine whether it complies with the site plan review criteria.

### **Technical Review**

A technical review fee may be required to pay reasonable costs incurred by the Planning

Board to review the application for technical conformance with the ordinance requirements. The municipality shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, in the account after the payment by Town of all costs and services related to the review, provided, however, that where the cost of technical reviews exceeds the amount of monies in the escrow account the applicant shall pay to the Town prior to the issuance of any building permit the amount by which the technical reviews exceed the amount of monies in the escrow account.

### **Public Hearing**

Upon certification by the Planning Board that an application is complete, the Planning Board, at its discretion, may hold a public hearing. If the Planning Board determines to hold a public hearing, it shall hold the hearing within thirty-five (35) days of the date that the application is deemed complete and shall provide public notice in accordance with the Subdivision Regulations.

The Planning Board shall conduct the hearing to assure full, but not repetitive, public participation. The applicant shall be prepared to respond fully to questions from the Planning Board or issues raised by the public that the Planning Board deems significant. The Planning Board may, upon its own motion, extend the hearing once for a period not exceeding thirty (30) days and to a date that shall be announced.

### **Planning Board Decision**

The Planning Board shall vote to approve, approve with conditions, or disapprove the Site Plan upon the conclusion of review of the development's compliance with Approval Standards. The Planning Board decision shall include written findings of fact and shall be provided to the applicant.

### **Performance Guarantee/Inspection Fees/Post Approval**

The Planning Board, at its discretion, may require that a performance guarantee be established with the Town for the cost of site improvements, as well as any Inspection fees needed to cover the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.. Each performance guarantee and Inspection fee shall comply with Sec. 8.4 of the Subdivision Regulations.

### **Approval Expiration**

Site plan approval shall be valid for a period of one (1) year from the date of the Planning Board vote. Prior to the expiration of the site plan approval, the applicant may request an extension of up to one year from the Planning Board for cause shown. Site plan approval shall remain valid if a building permit has been issued for the project prior to the expiration date. Expiration of the building permit prior to completion of the project shall render

the site plan approval null and void. Failure to comply with conditions placed upon site plan approval, to post any necessary performance guarantees, to comply with any other

permitting processes or to address any other issues of site development, except pending litigation challenging the site plan approval, shall render the approval null and void unless an extension is granted by the Planning Board for good cause.

### **3. Fees**

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

## **G. Submission Requirements**

### **1. General Submission parameters.**

The applicant shall submit ten (10) copies of building and site plans and supporting information drawn to a scale of not less than one inch equals fifty feet (1"=50'). The size of plan sheets submitted to the Planning Board shall be no larger than twenty-four (24) by thirty-six (36) inches, but a smaller size may be used with the permission of the Planning Board. A digital copy of the complete application shall also be made available upon request.

### **2. List of Submission items**

The application for approval of a Site Plan shall include all the following information, unless waived by the Planning Board as described below. Information that must be shown on a plan is in bold type. Submission information shall be shown on the number of plans needed to depict the information in a readable format and each plan shall be individually labeled with a title generally based on the information depicted on the plan, with one plan titled "Site Plan"

- (a) A fully executed and signed copy of application and evidence of payment of application and technical review fees.
- (b) Right, Title or Interest. Evidence of right, title, and interest in the site of the proposed project.
- (c) Written description. Written description of the proposed project including proposed uses quantified by square footage, number of seats, number of units or beds or number of students, and how development has been placed on the portions of the site most suited for development; application form; identification of the zoning district in which the property is located and the location of any zoning district boundary that bisects or abuts the property.
- (d) Name of Project/Applicant. Proposed name of the project; name and address of record owner and applicant, names and addresses of all property owners within five hundred (500) feet of any and all boundaries; date of submission; north point; graphic map scale.
- (e) Survey. A standard boundary survey of the site, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor in the State of Maine; a copy of the deed for the property to be developed, as well as copies of any easements, restrictions or covenants; location map, showing the relative location of



- the proposed project in relation to surrounding neighborhoods or areas of Town.
- (f) Existing Conditions. All significant existing physical features on the site including streams, watercourses, watershed areas, existing woodlands and existing trees at least eight (8) inches in diameter as measured four and one-half (4 ½) feet above grade, and other significant vegetation; soil boundaries and names in wetland locations and where subsurface wastewater disposal systems are proposed; when applicable, any portion of the property located in the floodplain, within two hundred and fifty (250) feet of the Normal High Water Line, or in a Resource Protection 1, Resource Protection 1 Buffer or Resource Protection 2 District.
  - (g) Topography. Contour lines, existing and proposed, at intervals of two (2) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum, referenced to mean sea level.
  - (h) Buildings. Location of all existing and proposed buildings and structures with the distance from the nearest property lines labeled; size in square feet of existing and proposed building footprints and total size of building; elevations of each vertical side of a new building with dimensions, location of doors and windows, exterior materials and roof pitch labeled; elevations of each side of an existing building proposed to be altered with dimensions, location of doors and windows, exterior materials and roof pitch labeled; floor plans; building footprints located on adjacent properties within fifty (50) feet of the project property line.
  - (i) Traffic Access and Parking. Location and width of the nearest public road, and if the project will have access to a private road or driveway, the location and width of the private road or driveway; location of existing and proposed driveways, parking areas and other circulation improvements; site distances for all access points onto public roads; location of parking, loading and unloading areas, which shall include dimensions, traffic patterns, access aisles, parking space dimensions and curb radii; calculation of parking required in conformance with Sec. 19-7-8, Off Street Parking; existing and proposed pedestrian facilities including the location, dimension and surface treatment of sidewalks and paths, and description of high-demand pedestrian destinations within ¼ mile of the development; improvements shall include design details, cross sections and dimensions as needed. Estimated number of trips to be generated based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers or equivalent quality information; For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, a traffic study shall be submitted measuring current traffic, estimating traffic generated by the new development and assessing impacts on adjacent roadways and nearby intersections. Where the development may have a substantial traffic impact, the traffic study shall also include recommended mitigation; information on proposed, funded road improvements and town evaluation of road improvements.
  - (j) Storm water. Calculation of existing and proposed impervious surface; a storm water management plan, with flow arrows, profiles, cross sections, and invert elevations prepared, showing existing and design of all facilities and conveyances, LID (Low Impact Development) methods, and identification and location of known existing deficiencies that result in storm water surcharge or flooding; location of proposed drainage easements; narrative description of how storm water will be managed;

description of any Low Impact Development (LID) methods incorporated into the plan; note on plan for maintenance of private storm water infrastructure; storm water maintenance plan that lists infrastructure that needs to be maintained, inspection frequency and maintenance requirements.

When the project increases impervious surface by an area of ten thousand (10,000) sq. ft. or more, or when requested by the Planning Board, the storm water management plan must be prepared, signed and stamped by a professional engineer licensed in the State of Maine, pre- and post-development calculations for the 2 and 25 year storm must be provided, and time of concentration path segments shown.

- (k) Erosion Control. An erosion control plan including details of erosion control methods used; written erosion control plan with notes.
- (l) Utilities
  - a. Water & Sewer - Estimated demand for water supply and sewage disposal together with the location and dimension of all provisions for water supply and wastewater disposal, and evidence of their adequacy for the proposed use, including soils test pit data if on-site sewage disposal is proposed and evidence to demonstrate suitability of soils for subsurface wastewater disposal; the location of the subsurface wastewater system; all designs, specifications and details for a clustered, private or public sewage system.
  - b. Electricity - Ability to serve letter from Central Maine Power; location of existing and proposed above and below ground electrical lines, other utility conduits and location of gas storage tanks and fuel lines.
  - c. Solid/Other Waste Disposal - Description of how solid waste will be stored and removed from the site; location and details of solid waste and recycling storage containers and screening; identification of chemicals, chemical wastes, hazardous, special or radioactive materials to be handled and/or stored onsite.
- (m) Landscaping. Location and description of existing vegetation to be preserved; methods of preserving vegetation to be used during construction/ landscaping and buffering plan showing what will be planted, indicating botanical and common names of plants and trees, fencing location, type, material and size.
- (n) Lighting. Location and type of lighting to be installed; lighting fixture details indicating type of standards wattage and mounting height.
- (o) Signs. Location, dimensions, materials, and details of signs.
- (p) Noise. Statement of the typical activities, structures and equipment proposed on the site that will generate exterior noise, and then identify the unique activities, structures and equipment that are not generally occurring on abutting or neighborhood properties; for the unique noises, provide the decibel (dBA) level at the property line (decibel level source information may be provided from equipment specifications, standard noise tables or other sources); characterize the unique noise as recurring, intermittent, or constant; the time of day the unique noise will occur.
- (q) Exterior storage. Location of outside storage or display areas; screening.
- (r) Financial and Technical Capability. Demonstration of technical and financial capability to complete the project. If the applicant concludes that public disclosure of confidential financial information may be detrimental to the success of the project,

the applicant may disclose such financial information to the Selectmen, who shall explore with due diligence, the applicant's financial capability to complete the project as proposed in a timely fashion and make a recommendation to the Planning Board.

### **3. Waiver of Submission items**

Where the Planning Board finds that the submission of any information listed in Sec. XIII.E, Submission Requirements, is not required in the interest of public health, safety, and general welfare, the Planning Board may waive such requirements. Such waiver shall be in writing and include the rationale for such waiver. Without limitation, the following circumstances may support a waiver of certain submission requirements.

- (a) Existing conditions. When no change to existing site conditions for that submission item is proposed, the Planning Board may designate a submission item as not applicable.
- (b) Substitution. Alternative information has been submitted more suited to the scope of the project.
- (c) Small project. The limited nature of the project allows the Planning Board to apply the Approval Standards and safeguard public health, safety and general welfare without submission of additional information.

## **H. Approval Standards**

The following criteria shall be used by the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Planning Board determines that the applicant has failed to meet one or more of these standards. In each instance, the burden of proof shall be on the applicant to produce evidence sufficient to warrant a finding that all applicable criteria have been met.

### **1. Utilization of the Site**

The plan for the development will reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas including but not limited to, wetlands, steep slopes, flood plains, significant wildlife habitats, scenic areas, and unique natural features shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall also be preserved to the maximum extent feasible.

### **2. Adequacy of Road System**

Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Transportation Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service C or better prior to the development will function at a minimum at Level of Service C after development. If any such intersection is functioning

at a Level of Service D or lower prior to the development, the project will not reduce the current level of service. A development not meeting this requirement may be approved if the applicant demonstrates that:

- (a) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard.
- (b) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.

### **3. Access into the Site**

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

- (a) All entrance and exit driveways are located to afford maximum safety to traffic, provide for safe and convenient ingress and egress to and from the site and to minimize conflict with the flow of traffic.
- (b) Any driveway or proposed street must be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards, to the maximum extent possible.
- (c) Points of access and egress must be located to avoid hazardous conflicts with existing turning movements and traffic flows.
- (d) The grade of any proposed drive or street must be not more than +/- 3% for a minimum of two (2) car lengths, or forty (40) feet, from the intersection.
- (e) The intersection of any access/egress drive or proposed street must function:
  - i. At a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips per twenty four (24) hour period; or
  - ii. At a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
- (f) Where a site has frontage on two (2) or more streets, the primary access to and egress from the site must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. No driveway entrance or exit is located within fifty (50) feet of the point of tangency of the existing or proposed curb radius of that site.
- (g) Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands, and traffic controls within public streets.
- (h) Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.
- (i) No part of any driveway shall be located within a minimum of ten (10) feet of a side property line. However, the Planning Board may permit a driveway serving two (2) or more adjacent sites to be located on or within ten (10) feet of a side property line dividing the adjacent sites.
- (j) Driveways intersect the road at an angle as near ninety degrees (90°) as site conditions will permit.
- (k) Road, driveway, and parking lot construction comply with the construction and design standards in Sec. 16-3-2 of the Subdivision Ordinance.

#### **4. Internal Vehicular Circulation**

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

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

#### **5. Parking Layout and Design**

Off-street parking shall conform to the following standards:

- (a) Parking areas with more than two (2) parking spaces shall be arranged so that vehicles do not need to back into the street.
- (b) All parking spaces, access drives, and impervious surfaces shall be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by accessways not exceeding twenty-four (24) feet in width.
- (c) In lots utilizing diagonal parking, the direction of proper traffic flow shall be indicated by signs, pavement markings or other permanent indication.
- (d) Parking areas for nonresidential uses shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles. "Stacked" parking may be permitted for resident parking in conjunction with residential uses if both spaces in the stack are assigned to the occupants of the same dwelling unit.
- (e) The "overhang" of parked vehicles shall be restricted when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.

#### **6. Pedestrian Circulation**

The site plan shall provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system shall connect the major building entrances/exits with parking areas and with existing or planned sidewalks in the vicinity of the project. The pedestrian network may be located either in the street right-of-

way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link the project with residential, recreational and commercial facilities, schools, bus stops, and sidewalks in the neighborhood.

## **7. Storm Water Management**

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

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

## **8. Erosion Control**

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

During construction, soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Best Management Practices (BMP's) as prepared by the Bureau of Land and Water Quality of the Maine Department of Environmental Protection, March 2003 or most recent edition.

## **9. Water Supply**

The development will be provided with a system of water supply that is adequate in quantity and quality to the proposed use. An adequate supply of water for fire protection purposes is provided.

## **10. Sewage Disposal**

The development will be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code.

- (a) If the public system cannot serve or be extended to serve a new or expanded use, the sewage shall be disposed of by an on-site sewage disposal system meeting the requirements of the State Subsurface Wastewater Disposal Rules.
- (b) When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

## **11. Utilities**

The development must be provided with electrical service adequate to meet the anticipated use of the project. New utility lines and facilities shall be screened from view to the extent feasible. If the service in the street or on adjoining lots is underground, the new service shall be placed underground. Except for propane tanks, no flammable or explosive liquids or solids shall be stored in bulk above ground unless they are located at least seventy-five (75) feet from any lot line, or forty (40) feet in the case of underground storage. Propane tanks less than 500 gallons in size shall be set back a minimum of ten (10) feet from the property line and tanks of 500 gallons or more in size shall be set back twenty-five (25) feet from the property line. All materials shall be stored in a manner and location that is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

## **12. Solid Waste.**

The proposed development will provide for adequate storage and disposal of solid wastes.

- (a) Any solid waste stored on the property prior to removal to an authorized facility shall be secured and screened from public view.
- (b) All storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall meet the standards of the State Department of Environmental Protection and the State Fire Marshall's Office.
- (c) The handling, storage, and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive shall be done in accordance with the standards of these agencies. Any waste produced which is classified as a hazardous, special or radioactive waste by either federal or state standards shall be disposed of at a licensed disposal facility appropriate for the type of waste and done in accordance with applicable state and federal regulations.



### **13. Shoreland Relationship**

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

### **14. Landscaping and Buffering**

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

- (a) Areas of vegetation to be retained shall be designated on a preservation plan. Within the drip line of trees to be preserved, activity and disturbance shall be prohibited and a physical barrier shall be provided to separate these areas from the construction area.
- (b) The development plan will provide for landscaping that defines street edges, mitigates the expanse of parking areas, enhances the appearance of the development and reduces the impact of the development on abutting properties. Landscaping materials shall be chosen for their ability to thrive at the planting site, provide screening, create visual interest and promote diversity of the community forest.
- (c) The development shall provide for screening of service and storage areas.

### **15. Exterior Lighting**

- (a) The proposed development shall provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours, if such use is contemplated, without excessive illumination. Lighting may be used which serves security, safety and operational needs but which does not directly or indirectly produce deleterious effects on abutting properties or which would impair the vision of a vehicle operator on adjacent roadways.
- (b) Direct or indirect illumination shall not exceed 0.5 footcandles at the lot line. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view by motorists, pedestrians, or from adjacent dwellings and so that they do not unnecessarily light the night sky. All exterior lighting, except security lighting, shall be turned off between 11 p.m. and 6 a.m. unless located on the site of a commercial or industrial use which is open for business during that period.

### **16. Signs**

Signs shall be in accordance with the Lebanon Addressing Ordinance.

### **17. Storage of Materials**

- (a) Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse shall have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to minimize their impact on abutting residential uses and users of public streets.
- (b) All dumpsters or similar large collection receptacles for trash or other wastes shall be



located on level surfaces which are paved or graveled. Dumpsters or receptacles shall be screened by fencing or landscaping.

- (c) All sites potentially hazardous to children shall require physical screening sufficient to deter small children from entering the premises. This screening shall be maintained in good conditions.

### **18. Technical and Financial Capacity**

The applicant has demonstrated the financial and technical capacity to carry out the project in a timely fashion in accordance with this ordinance and the approved plan.

## **I. Post Approval Activities**

### **1. Limitation of Approval**

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

### **2. Incorporation of Approved Plan**

One copy of the approved site plan must be included with the application for the building permit for the project and all construction activities must conform to the approved plan, including any conditions of approval and minor changes approved by Code Enforcement Officer to address field conditions.

### **3. Recording of the Approved Plan**

One copy of the approved site plan must be recorded in the York County Registry of Deeds within thirty (30) days of approval and the book and page number provided to the Code Enforcement Officer. Failure to record the plan within thirty (30) days shall void the approval. The Planning Board may extend this period for cause.

## **J. Site Review Amendments**

Any alteration to a site which is inconsistent with the approved site plan shall require an amendment to the site plan. Planning Board approval must be obtained prior to the alteration.

### **1. De minimus Change**

The intent of this section is to process minor deviations from the approved plan that typically arises as a project moves from conception to completion of construction. De minimus changes shall not include (1) a change to a public or private right-of-way or easement, (2) a decrease in proposed buffering or landscaping, (3) any issue involving a condition placed on the site plan approval, or (4) any change in a building footprint greater than five (5) feet in any direction. Site plan changes which do not receive de

minus approval shall be submitted to the Planning Board.

**Review:** The applicant shall meet with the CEO and provide a written description of the proposed amendments and all applicable plans impacted by the amendments. The CEO shall review the submission with the applicant and consult with appropriate town staff. The CEO will make a preliminary determination that the proposed changes do comply with the approval standards, do not comply with the approval standards, or that the nature of the amendments merit review by the Planning Board.

**Decision:** The CEO shall forward the De Minus Change application and a recommendation to the Planning Board Chair. The Planning Board Chair shall make the final determination to approve a de minus change or to forward the site plan amendment to the Planning Board for review.

## **2. Amendment**

Any change to a plan approved by the Planning Board must be submitted to the Planning Board for review and approval; unless the amendment is a de Minus Change. The Planning Board shall review the amendments in accordance with the Review Procedures. Submission requirements may be limited to the information related to the proposed amendments. Any Planning Board Decision to approve amendments to a previously approved Site Plan shall incorporate the original Site Plan Approval, except as specifically amended.

## **K. Appeals**

Any person who believes that the CEO has made an error in the interpretation or application of the provisions of this ordinance, may appeal such determination to the Board of Appeals as an administrative appeal.

Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

Appeals of an action taken by the Planning Board regarding site plan review shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

## **L. Validity and 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 this Ordinance.

## **M. Effective Date of the Ordinance and Ordinance Amendments**

The effective date of this Ordinance shall be the date of adoption by the citizens of Lebanon on November 6, 2018.

## **N. Ordinance Amendments**

This Ordinance may be amended by a majority vote of the citizens of Lebanon.

## **O. Definitions**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual or other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.

The word "lot" includes the words "plot" and "parcel."

The word "structure" includes the word "building."

The word "used" or "occupied" as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The words "Town" or "municipality" means the Town of Lebanon, Maine.

The word "may" is permissive; "shall" is mandatory and not discretionary.

**Abutter:** The owner of any property with one or more common boundaries, or across the street or stream from the property involved in an application or appeal.

**Abutting property:** Any lot which is physically contiguous with the subject lot or is located directly across a public or private way from the subject lot

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

**Accessory Use or Structure:** A use or structure that is customarily both incidental and subordinate to the principal use or structure on the same lot. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the principal use of the lot.

**Aggrieved party:** A person whose land is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across the road or street or body of water from land for which a permit or variance has been granted, or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

**Agricultural Activities:** Agricultural activities means the growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, field crops, cultivated or pasture hay and farm wood lots products, including Christmas trees. Marijuana related activities are excluded from this definition.

**Agricultural Land Management Practices:** Means those devices and procedures utilized in the cultivation of land in order to further crop and livestock production and conservation of related soil and water resources.

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

**Building:** Any three-dimensional enclosure, which is used for the housing, shelter or enclosure of persons, animals or property.

**Change of Use:** A change in the type of occupancy/use of a building, structure, or a portion thereof, and/or the land, such that the basic type of use is changed, such as from retail to office or storage to a restaurant, but not including a change in the occupants.

**Code Enforcement Officer (CEO):** A person appointed by the Board of Selectmen to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, and the like where applicable.

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

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

**Expansion of Structure:** An increase in the floor area, volume, or footprint of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

**Expansion of Use:** Any intensification of use in time, volume, or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use.

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

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

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

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

**Impervious Area:** The total area of a parcel that consists of buildings and associated constructed facilities or areas that will be covered with a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas that will be compacted through design or use to reduce their permeability. Common impervious areas 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 macadam or other surfaces which similarly impede the natural infiltration of stormwater.

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

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

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

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

**Principal Use:** a use other than one which is wholly incidental or accessory to another use on the same lot.

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

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

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

**Structure:** Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

**Vegetation:** all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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

Adopted by the Town of Lebanon voters on November 6, 2018 by  
a vote of YES: 1161 NO: 926

A True Attest Copy

Marybeth Pardon Lebanon Town Clerk

