

Site Plan Review Ordinance

Town of Winter Harbor, Maine

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Section 1. General Provisions

Section 1. General Provisions

A. Title

This Ordinance shall be known as the "Site Plan Review Ordinance of the Town of Winter Harbor, Maine." It shall be referred to herein as the "Ordinance."

B. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2 of the Maine Constitution (*Municipal Home Rule*), the provisions of 30-A M.R.S.A. § 3001 (*Home Rule*) and the provisions of the Planning and Land Use Regulation Act 30-A M.R.S.A. Chapter 187 (*Comprehensive Planning and Regulation or "Growth Management Act"*) and 30-A M.R.S.A. § 4452 (*Enforcement of Land Use Laws and Ordinances*).

No activity or use requiring Site Plan Review shall commence until the property owner has received Site Plan Approval from the CEO or Planning Board as appropriate, and has complied with any other applicable provisions of this ordinance. No plumbing or other permits or certificate of occupancy shall be issued by the municipal officers or Code Enforcement Officer for any use or development within the scope of this ordinance until the Site Plan Application has been reviewed and approved. The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable or would be an unnecessary burden upon the applicant and that such modifications or waiver will not adversely affect the abutting landowners or the general health, safety, or welfare of the Town. Permits can be transferred with the approval of the Planning Board

C. Purposes

1. To assure the safety, health, and welfare of the people of the Town of Winter Harbor.
2. To promote an economically sound and stable community.
3. To lessen danger and congestion of traffic on **public roads**.
4. To protect and preserve the natural environment of the Town of Winter Harbor.
5. To establish orderly and uniform procedures whereby the Town may review high impact projects to ensure that the other purposes of this Ordinance are met.

D. Applicability

1. This ordinance **does not apply** to single family dwellings or the construction, alteration, or enlargement of a single family or two-family dwelling which when completed are less than 3,500 total square feet when including the combined footprint of all structures on a single lot. This ordinance **does not apply** to home-based occupations or home-based fishing, agricultural, *professional* or forestry activities. This ordinance **does not apply** to uses existing at the adoption of the ordinance.

2. This ordinance shall apply to all development proposals for establishment, alteration, or change of use of commercial, retail, industrial, institutional buildings and structures and multiple family dwellings consisting of three or more attached dwelling units and their accessory uses and structures. This ordinance does not apply to home-based occupations, agricultural or forestry activities. The one-time expansion of a structure or accessory building footprint by six hundred (600) square feet or less in any five-year period may be permitted by the Code Enforcement Officer.
3. A person who has right, title, or interest in a parcel of land must 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:
4. The construction or placement of any new building or structure for a nonresidential use, or the expansion or conversion of an existing building for a nonresidential use, including accessory buildings and structures, if such buildings or structures have a total area for all floors of 4,000 square feet or more.
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 this ordinance.
6. The 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. Pursuant to Maine law, such a project is also subject to subdivision review.
7. The establishment of a new nonresidential use even if no buildings or structures are proposed, including uses such as gravel pits, cemeteries, golf courses, and other nonstructural nonresidential uses.
8. The conversion of an existing non-residential building or structure, in whole or part, into three (3) or more dwelling units within a five (5) year period.
9. The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, and parking lots involving an area of more than 2,500 square feet within any 3-year period.

E. Conflict with Other Laws

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, or statute which also applies to the proposed project, the requirement imposing the more restrictive or higher standard shall govern.

F. Severability

In the event that any section, subsection, or provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, that declaration shall not be deemed to affect the validity of any other section, subsection, or provision of this Ordinance. To this end, the provisions of this Ordinance are hereby declared to be severable.

G. Effective Date

The effective date of this Ordinance or any amendments hereto is the date of its adoption at a Town Meeting.

Section 2. Definitions

As used in this Ordinance, unless the context otherwise indicates, the following terms have the following meanings.

NOTE: For convenience only, defined terms are marked in **bold italics** where they appear in the text.

Abutting lot: A **lot** which abuts, is contiguous to, or joins at a border or boundary, including **lots** across a **road**, the **lot(s)** subject to the **Site Plan Review** requirement and any contiguous lots under common ownership.

Aggrieved party: An **owner** of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a **person** who owns an **abutting lot** to that **lot** for which a **Site Plan Review Permit** or variance has been granted; or any other **person** who has suffered particularized injury as a result of the granting or denial of such **Site Plan Review Permit** or variance.

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**.

Agricultural activities: 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 ornamentals and greenhouse products. **Agricultural activities** do not include the processing of agricultural products for market or consumption such as slaughterhouses, packing plants or canneries.

Attic: That part of a **structure** immediately below and wholly or partly within the roof framing.

Basement: Any portion of a **structure** with a floor to ceiling height of six (6) feet or more and having more than fifty per cent (50%) of its volume below the existing ground level.

Building: Any **structure** designed to shelter people, animals, or property.

Campground: Any premises established for camping, including **recreational vehicle** parks, for which a fee is charged.

Campsite: An area in a **campground** designed for use by a single **recreational vehicle**, tent, or shelter.

CEO (Code Enforcement Officer): A **person** appointed by the municipal officers to administer and enforce this Ordinance.

Commercial: An activity the intent or result of which is to generate revenue from the buying and selling of goods and/or services, exclusive of rental of **single-family** or **duplex dwellings**. This definition includes non-profit organizations and activities.

Commercial recreation facility: Any **commercial** enterprise that provides recreational activities including, but not limited to, racquet ball clubs, health clubs, amusement parks and golf courses.

Commercial use: The use of lands or **structures**, other than for a "**home occupation**," for **commercial** purposes.

Duplex dwelling: A detached or semi-detached **building** consisting of two (2) **dwelling units**.

Dwelling unit: A room or group of rooms designed and equipped exclusively for use as living quarters for only one (1) **family**, including provisions for living, sleeping, cooking, and eating and, if present, a **home occupation**).

Expansion (of a **structure**): An increase in the **height, floor area** or volume of a **structure**, including increases in 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. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be **expansions** of use.

Family: One or more **persons** occupying a premises and living as a single housekeeping unit.

Floor area: The sum of the horizontal surface areas of a **structure** enclosed by exterior walls (including the gross habitable portions of any attic or basement), plus the horizontal surface area of any unenclosed portions of a **structure** such as porches and decks.

Footprint: The area enclosed by the outside perimeter of a **structure** at ground level.

Forest management activities: Timber cruising and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated silvicultural activities.

Height (of a **structure**): The vertical distance between the mean original (prior to construction) grade at the downhill side of the **structure** and the highest point of the **structure**, excluding roof-mounted solar photovoltaic (PV) panels, chimneys, steeples, antennas, and similar appurtenances that have no **floor area**. For ground-mounted solar photovoltaic (PV) panels, the vertical distance

between the mean original (prior to construction) grade at the point where a panel is fixed to the ground and the highest point of the panel.

High intensity soil survey: A "high intensity soil survey" as defined by the Maine Association of Professional Soil Scientists.

Home occupation: An occupation or profession which is customarily conducted on or in a residential **structure** or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) **persons** other than **family** members.

Impervious surface: Surfaces which do not absorb water, including, without limitation, all **buildings**, parking areas, driveways, **roads**, sidewalks and any areas of concrete or asphalt. In the case of lumberyards, areas of stored lumber constitute **impervious surfaces**.

Loading area: An off-**street** space or berth on the same **lot** with a **building** or contiguous to a group of **buildings** for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a **street**, alley, or other appropriate means of access.

Lot: A parcel of land undivided by any **public road**.

Lot coverage: The maximum combined **footprints** of all **structures** on a **lot**, divided by the area of such **lot**, the result expressed as a percentage. In **shoreland areas**, **lot coverage** also includes all un-revegetated areas.

Lot line: A line bounding a **lot** that divides one **lot** from another, or from a **public road**.

Major Development: A project which has been classified as such under the provisions of Section 4(B) (or reclassified under Section 4(C)) of this Ordinance.

Minor Development: All projects not classified as a **Major Development**.

Non-conforming (building or structure): A **building** or **structure** which 1) was in **commercial use** as of the date of adoption of Section 6(H)(3) and 2) did not conform to the setback provisions of that section as of such date.

Owner: The **person** having the right of legal title to, beneficial interest in, or a contractual right to purchase a **lot**.

Permitting authority: The **person** (**CEO**) or entity (Planning Board) responsible for issuing a particular permit or approval under this Ordinance.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

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

Principal use: A use other than one that is wholly incidental or **accessory** to another **use** on the same premises.

Public road: A **road** designated for public use; typically maintained by a governmental body such as a town, county, state, or the Federal government.

Recreational vehicle: A vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more **persons**, including, without limitation, a pickup camper, travel trailer, tent trailer, motor home, or converted van or truck.

Road: A thoroughfare, way or easement permanently constructed for or created by the repeated passage of vehicles.

Site Plan Approval: A decision by the **permitting authority** to approve a project as a result of **Site Plan Review**.

Site Plan Review: The process of evaluating an application for a project under this Ordinance.

Site Plan Review Permit: A written order granting **Site Plan Approval**.

Shore frontage: The horizontal distance, measured in a straight line, between the intersections of the **lot lines** with the shoreline at the normal high-water line or the upland edge of a coastal wetland. The terms “normal high-water line” and “coastal wetland” shall have the meanings set forth in 38 M.R.S.A. § 480-B.

Shoreland area: All areas to which the Shoreland Zoning Ordinance for the Municipality of Winter Harbor is applicable.

Sign: Any **structure**, display, logo, device, or representation which is designed or used to advertise or call attention to anything, **person**, business, activity, or place, and which is visible to the public. A **sign** does not include any flag, pennant or insignia of a nation, state, town, or other political entity.

Whenever dimensions of a **sign** are specified, they shall include frames. Each visible **sign** face shall constitute a separate **sign**, except that a **sign** with two (2) faces shall be considered one (1) **sign** so long as the distance between the faces does not exceed twelve (12) inches. The area of both faces shall be combined in determining the total area of the **sign**.

Single-family dwelling: A detached or semi-detached **building** consisting of one (1) **dwelling unit**.

Solar energy system: A complete assembly of solar collectors and associated mounting hardware, electricity storage equipment, transmission and distribution lines, and related infrastructure that uses solar photovoltaic (PV) technology (including solar panels) to collect, convert, store, and deliver electricity for on-site or remote consumption. A **solar energy system** may be roof-mounted or ground-mounted.

Solar energy system, accessory: A **solar energy system**, other than a **solar microgrid**, that is (i) roof-mounted; or (ii) ground-mounted, whose **solar land area** does not exceed 0.5 acres, and whose nameplate capacity is 125 kW (DC) or less.

Solar farm, local-scale: A ground-mounted **solar energy system**, other than an **accessory solar energy system**, whose **solar land area** does not exceed 2.5 acres and whose nameplate capacity is 500 kW (DC) or less.

Solar farm, large-scale: A ground-mounted **solar energy system**, other than an **accessory solar energy system**, whose **solar land area** exceeds 2.5 acres or whose nameplate capacity is greater than 500 kW (DC).

Solar farm, permissible: Any **solar energy system** that is listed under Section 3(B) (the Table of Land Uses) as an allowed land use activity requiring a site plan review permit.

Solar land area: The aggregate area of land occupied by a ground-mounted **solar energy system**, including but not limited to: (i) solar panels and associated mounting hardware and equipment, (ii) all inter-panel space, and (iii) all impervious surfaces. **Solar land area** does not include parking lots, driveways, or roadways used to access the **solar energy system** or any areas adjacent to the **solar energy system** that are vegetated by grasses and must, by virtue of a legal instrument, be kept free of structures, trees, or shrubs in order for the system to capture sunlight.

Solar microgrid: A **solar energy system** of any size or nameplate capacity that shall operate independently of the electric grid to generate, store, and deliver electricity primarily for on-site consumption by multiple **principal uses** or **structures** located on one or more parcels of land within a geographically defined area that does not extend beyond the geographic scope of the Town of Winter Harbor.

Street: A **public road**.

Structure: Anything built for the support, shelter or enclosure of **persons**, animals, goods, or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, poles, **signs**, sidewalks, driveways, or parking lots. The term includes structures temporarily or permanently located, such as tents, decks, raised walkways, handicapped access ramps, external stairways, gazebos, and satellite dishes.

Subdivision: All land use activities defined as a "Subdivision" under the Winter Harbor Subdivision Ordinance. Note that this definition specifically excludes activities involving leased **dwelling units** which are subject to review under this Ordinance.

Substantial commencement: Completion of thirty percent (30%) of a permitted **structure** or use measured as a percentage of estimated total cost.

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

Yard: The area of land not occupied by **buildings**.

Section 3. Site Plan Review Required

A. Permit Required

No **person** shall commence or undertake any land use activity within the Town of *Winter Harbor* without first obtaining a **Site Plan Review Permit** as indicated by the following Table of Land Uses.

B. Table of Land Uses

Land Use Activity	Site Plan Review Permit Required?
1. One or two single-family dwellings which when completed are less than 3,500 total square feet when including the combined footprint of all structures on a single lot .	No
2. Duplex dwelling which when completed are less than 3,500 total square feet when including the combined footprint of all structures on a single lot .	No
3. Conversion of a single-family dwelling on a single lot to a duplex dwelling without expanding the existing footprint.	No
4. Any structure or activity that is an accessory structure or use to items 1 through 3, above which when completed are less than 3,500 total square feet when including the combined footprint of all structures on a single lot .	No
5. Subdivisions subject to review under the <i>Winter Harbor</i> Subdivision Ordinance.	No
6. All agricultural activities .	No
7. Forest management activities .	No

8. The construction of any new structure not otherwise exempted by this table.	Yes
9. Any new commercial use of land not otherwise exempted by this table.	Yes
Any expansion of an existing commercial use that results in: lot coverage greater than fifty percent (50%); total floor area of all floors and all structures on a lot combined that are greater than 4,000 square feet in area; or total impervious surfaces on the lot in excess of four thousand (4,000) sq. ft. or seventy five percent (75%) of lot area .	Yes
11. Any use that will result in substantial waste water discharge as described in Section 4(B)(1) of this Ordinance.	Yes
12. The interior expansion of any commercial use structure that increases the floor area used for commercial purposes by fifty percent (50%) or more.	Yes
13. Any use that will result in substantial groundwater extraction as described in Section 4(B)(2) of this Ordinance.	Yes
14. Any accessory solar energy system .	No
15. Any local-scale solar farm .	Yes
16. Any solar microgrid .	Yes
17. Any large-scale solar farm interconnected with a line tap to a sub transmission line with a voltage of 46kv or less.	Yes

C. Prohibited Uses

The following land use activities within the Town of Winter Harbor, and any **structures** associated with such activities, are prohibited:

- | |
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| 1. Any large-scale solar farm that does not meet the requirements of Section 3(B)(17), above. |
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Section 4. Application Procedures

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

A. Classification of Projects

Each project subject to **Site Plan Review** shall be classified by the **CEO** as a **Major Development** or a **Minor Development**.

B. Major Developments

Any project involving any of the following shall be classified by the **CEO** as a **Major Development**. Any project initially classified as a **Major Development** may be reclassified as a **Minor Development** upon a finding by the Planning Board that the project does not meet any of the requirements for classification as a **Major Development**. After such reclassification all further review shall be conducted by the **CEO**.

1. Projects with substantial waste water discharge

Projects that are not served by a public sewer, which will generate a daily average discharge of more than two thousand (2,000) gallons of waste water, and which will meet any one of the following three conditions:

- a. The project is located within three hundred (300) feet of a sand and gravel aquifer, as shown on the relevant map of Significant Sand and Gravel Aquifers published by Maine Geological Survey;
- b. Any part of the project is located in an area to which the Shoreland Zoning Ordinance for the Town of Winter Harbor is applicable; or
- c. Any part of the project is located in the watershed of the Winter Harbor Water District.

2. Projects with substantial groundwater extraction

Projects extracting one thousand (1,000) gallons or more of groundwater per day.

3. Projects involving hazardous materials, oil, or radioactive substances.

- a. Hazardous activities involving the consumption, generation, or handling of:
- b. Hazardous wastes as defined in 38 M.R.S.A. § 1303-C;
- c. Hazardous matter as defined in 38 M.R.S.A. § 1317;
- d. Oil, as defined in 38 M.R.S.A. § 542; and
4. Low-level radioactive wastes, as defined in 38 M.R.S.A. § 1451.

4. Building footprint in excess of four thousand (4,000) sq. ft.

Any **building** or **buildings** on a single lot constructed or erected with a fixed location on or in the ground or attached to something on or in the ground which occupies a footprint in excess of four thousand (4,000) square feet.

5. **Impervious surfaces in excess of four thousand (4,000) sq. ft.**

Any project in which total **impervious surface(s)** will occupy a ground area in excess of four thousand (4,000) square feet.

6. **Conversion or Expansion of a Major Development**

Any project which is a conversion or **expansion** of an existing project meeting the description of a **Major Development**.

7. **CEO Determination of Potential Significant Impact**

Any project which the **CEO** determines a) may have significant impact to the physical, social, economic, or the environmental welfare of the Town or b) has characteristics that make it reasonable and necessary to conduct a professional review (as described in Section 5(E)) prior to considering the application for **Site Plan Approval**.

8. **Permissible Solar Farms**

Any project that meets the definition of a **permissible solar farm**.

C. **Minor Developments**

A project not classified by the **CEO** as a **Major Development** shall be considered a **Minor Development** under this Ordinance. Any project initially classified as a **Minor Development** may be reclassified as a **Major Development** upon a finding by the **CEO** that the project meets the requirements for classification as a **Major Development**. After reclassification, all further review shall be conducted by the Planning Board.

D. **Submission Requirements**

1. **Major and Minor Developments**

All projects requiring **Site Plan Review** shall submit the information specified in Section 4(E). **Major Developments** meeting the criteria in Section 4(B)(1) (Projects with substantial waste water discharge) and Section 4(B)(2) (Projects with substantial groundwater extraction) shall submit additional information as provided in Section 4(F).

2. **Waiver**

The **permitting authority** may waive any of the submission requirements upon the written request of an applicant for good cause shown. The **permitting authority** must state the facts constituting good cause in writing. No waiver may be granted if it will unduly restrict the review process. The **permitting authority** may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the **permitting authority's** finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the **permitting authority** may, at any later point in the review process, rescind such waiver if it appears that any submission requirement

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previously waived is necessary for an adequate review. A request for submission previously waived shall not affect the pending status of an application.

3. Procedures

Applications for **Site Plan Review** shall be submitted on forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the **CEO** who shall, for **Major Developments**, forward these materials to the Planning Board.

E. Optional pre-application review

Prospective applicants may submit a sketch plan of the site and proposed project to the **Planning Board** for informal review and comment. There is no fee for pre-application review; any review or comment by the Planning Board is not binding upon the **Town** or Planning Board.

1. Pre-application

Prior to submitting a formal application, the applicant or his/her representative may request a pre-application conference with the Planning Board. Said request shall be made, in writing, to the Board Secretary at least fourteen (14) days prior to a regularly scheduled Planning Board meeting. Applicant shall provide the Planning Board with whatever information, relative to the proposed project, is available at the time of the pre-application conference. A pre-application conference is strongly advised. The pre-application conference 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 or proceeding under Title 1 M.R.S.A. §302. No decision on the substance of the plan shall be made at the pre-application conference.

2. Purpose

- a. The purposes of the pre-application conference are to:
 - i. Allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal,
 - ii. Allow the applicant to understand the development review process and required submissions,
 - iii. Identify issues that need to be addressed in future submissions, and
 - iv. Make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

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

b. Information Required

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

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

F. Application Submission and Review Procedures

The applicant must prepare and submit a site plan review application, including the development plan and supporting documentation that meets the submission requirements set forth below. This material must be submitted to the Code Enforcement Officer twenty-one (21) days prior to meeting at which application will be considered.

1. At the time formal application is made, the Code Enforcement Officer shall give a dated receipt to the applicant and the applicant shall notify by certified mail all property owners of the parcel on which the proposed development is located. Written notice of the pending application shall be provided by the CEO to the Selectmen, Town Manager, Fire Chief, Road Commissioner, and other interested parties.
2. Within forty (40) days of the receipt of a formal site plan review application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted to the Board. These steps, except the notification requirements, shall be repeated until the application is found to be complete.
3. As soon as the Board determines that the application is complete, the Board shall: notify the applicant in writing of this finding, meet the notification requirements of subsection B.(4) below, and place the item on the agenda for substantive review within forty (40) days of this finding or at the next scheduled Planning Board meeting, whichever is later.

4. As soon as the application is found to be complete, the Planning Board may schedule a public hearing, and shall notify the applicant on which the proposed development is located, per the requirements set forth in section B. (5) below. If the Planning Board does not schedule a public hearing, the Planning Board will allow those so notified in section B. (1) above to comment on the application before deliberations on Article IX of this Ordinance commence.
5. After the first meeting at which the application is considered, the Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted and investigate the development proposal. The Board may decide not to hold an on-site inspection when the site is snow covered or otherwise impassable due to customary seasonable conditions. If an application is pending during a period when there is snow cover or the site is impassable, the deadline by which the Planning Board shall take final action on the application as specified in B. (6) may be extended, which extension shall not exceed forty (40) days after the Board is able to conduct an on-site inspection. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection B. (1).
6. The Planning Board shall take final action on said application within forty (40) days of determining that the application is complete. The Board shall act to deny, to approve, or to approve the application with conditions. The Board may impose such conditions as are deemed advisable to assure compliance with the standards of approval.

In issuing its decision, the Planning Board shall make written findings of fact establishing that the proposed development does or does not meet the standards of approval and other requirements of the Town. The Board shall notify the applicant, all officials who received notice under B. (4) and all parties who requested to be notified of the action of the Board, including the findings of fact, and any conditions of approval. This requirement can be met through the distribution of minutes of the meeting containing the findings of fact and decision of the Board.

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

G. Final Approval and Filing

Upon completion of the requirements of this Section and an approval vote by the majority of the Planning Board, the application shall be deemed to have final approval and the site plan shall be signed by a majority of the members of the Board and must be filed with the Code Enforcement Officer. Any plan not so filed within thirty (30) days of the date upon which such plan is approved and signed by the Board shall become null and void.

H. Fees

1. Application Fee

An application for site plan review must be accompanied by an application fee in such amount as the Board of Selectmen may by rule from time to time establish. The fee schedule will be provided to the applicant by the Code Enforcement Officer. This fee is intended to cover the cost of the Town of Winter Harbor's administrative processing of the application. The fee shall not be refundable.

This application fee must be paid to the Town of Winter Harbor and evidence of payment of the fee must be included with the application.

2. Technical Review Fee

In addition to the application fee, the applicant for site plan review must also pay a technical review fee in the amount of five hundred (500) dollars to defray the Town's legal and technical costs of the application review. This fee must be paid to the Town of Winter Harbor and shall be deposited in the Development Review Trust Account, which shall be separate and distinct from all other municipal accounts. The application will be considered incomplete until evidence of payment of this fee is submitted to the Planning Board. The Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review. If seventy five percent of the initial technical review fee is used, the Planning Board may request additional monies to cover expenses.

The technical review fee may be used by the Planning Board to pay reasonable costs incurred by the Board, at its discretion, which relate directly to the review of the application pursuant to the review criteria. Such services may include, but need not be limited to, consulting, engineering or other professional fees, attorney fees, recording fees, and appraisal fees. The Town of Winter Harbor shall provide the applicant, upon written request, with an accounting of his or her account and shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such payment of remaining monies shall be made no later than sixty (60) days after the approval of the application, denial of the application, or approval with condition of the application. Such refund shall be accompanied by a final accounting of expenditures from the fund. The monies in such fund shall not be used by the Board for any enforcement purposes nor shall the applicant be liable for costs incurred by or costs of services contracted for by the Board which exceed the amount deposited to the trust account.

3. Establishment of Fees

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

I. Public Hearing Requirements

1. A public hearing is required for any Site Plan Review Application that requires Planning Board approval.
2. Notice of the date, time and place of the public hearing, and site inspection if scheduled, shall be made as follows:
 - a. Published by the Planning Board at least once in a newspaper having general circulation within the Town of Winter Harbor. The date of the first publication shall be at least 21 days before the hearing.
 - b. Posted at the Town Office, the Winter Harbor Post Offices, the Winter Harbor web site.
 - c. Mailed by the Planning Board by certified mail to the Applicant.
 - d. Mailed by the Planning Board by certified mail to the last-known addresses of owners of property located within 500 feet of any property line of the parcel(s) on which the proposed development is located. Failure of any of these property owners to receive notice shall not invalidate the public hearing.
3. All costs of notification per requirements of this section any other section of this Ordinance shall be borne by the Applicant.

J. Requirements for All Applications

The following materials and items are required of all applications.

1. Application form

A fully executed and signed copy of the application form.

2. Review and advertising fees

A non-refundable **Site Plan Review** fee of three hundred dollars (\$300.00), plus thirty cents (\$0.30) for each square foot of new **floor area** (or **floor area** subject to a new use) over one thousand (1,000) square feet.

Applications for which a public hearing will be held must also be accompanied by an additional advertising fee of fifty dollars (\$50.00) for advertising twice in local newspaper.

3. Technical review fee

For **Major Developments** there shall be, in addition to the base fee of \$500 (H.2), there is an additional technical review fee of one hundred fifty dollars (\$150.00) for each two thousand (2,000) square feet or any fraction thereof of new **impervious surface** over two thousand (2,000) square feet.

Upon request of the Planning Board and the approval of the Select Board, all or any portion of the technical review fee may be expended for this additional technical services by independent consultants, to be conducted as described in Section 5. Any moneys remaining at the end of the review shall be returned to the applicant.

4. Copies

- a. Applications for **Minor Developments** shall include two (2) copies of written materials plus two (2) sets of maps or drawings containing the information listed below.
- b. Applications for **Major Developments** shall include eight (8) copies of written materials plus eight (8) sets of maps or drawings containing the information listed below.
- c. All maps or drawings shall be at a scale sufficient to allow review of the items listed under the criteria for approval.

5. General information

The following general information is required:

- a. Name, address and complete contact information of **owner** of record and the facility operator's name and address if different;
- b. Applicant's name, address, and complete contact information if different;
- c. The name of the proposed project;
- d. Names and addresses of all **abutting lot owners**, together with certification by the applicant (on a form provided by the Town) that notice of the applicant's intent to file the application has been provided to each **abutting lot owner** by certified mail;
- e. Sketch map showing general location of the site within the Town;
- f. Location map showing the relationship of the proposed project to adjacent properties and to the general surrounding area within three thousand (3,000) feet of any property line of the site, and the location of any identified sand and gravel aquifers within three hundred (300) feet of the project. The scale shall not be smaller than 1" = 400'; reduced tax maps showing **owner's** names and other required information may be acceptable;
- g. The tax map(s) and lot number(s) of the **lot** where the project is located and of **abutting lots**;
- h. A copy of the current deed to the **lot**, option to purchase the **lot** or other documentation to demonstrate right, title, or interest in the **lot** on the part of the applicant; and
- i. The name(s), registration number(s), and seal(s) of the land surveyor, architect, *landscape architect*, engineer, and/or similar professionals assisting with the preparation of the plan.

6. Site information

The following information regarding the proposed project and existing conditions is required. This information must accompany, or be submitted on, a map using the following scale and showing the date of the map, magnetic north, the scale, and the identity of the draftsman:

Acres

Scale

1 to 10	1"=10' to 1"=50'
10+ to 50	1"=50' to 1"=100'
50+(lots <=4 acres)	1"=100'
50+(lots >4 acres)	1"=200'

- a. Zoning classification(s) of the **lot** and the location of zoning district boundaries if the **lot** is wholly or partially located in a **shoreland area**.
- b. The bearings and distance of all **lot lines** of the **lot** on which the project is located and the source of this information.
- c. Location and size of all existing and proposed wells, sewer, and water mains, culverts, drains, above or below ground utilities and waste water disposal systems on the **lot** on which the project is located, and of any of these items that currently serves or will serve the project from **abutting lots** or **public roads**.
- d. Location, names and widths of all existing and proposed **roads** and rights-of-way adjacent to the proposed project.
- e. The location, dimensions, and ground floor elevations of all existing and proposed **buildings** on the **lot**.
- f. The location and dimensions of all existing and proposed driveways, **roads**, parking and **loading areas** and walkways on the **lot**.
- g. The existing and proposed topography of the site at an appropriate contour interval (not greater than 5') depending on the nature of the use and character of the **lot**.
- h. Major natural features on the site and including, within two hundred fifty (250) feet of the **lot lines**, wetlands, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats including bird nesting, staging, and feeding areas and deer yards, archaeological resources, or other important natural features.
- i. The direction and amount of pre-development and proposed surface water drainage flow across and from the site, based upon 24-hour, 2-, 10- and 25-year storms. Where proposed flows exceed pre-development flows by ten percent (10%) or more, the applicant shall submit a storm water management plan, showing the steps taken to minimize the impact of storm water runoff. The storm water management plan shall be based upon 24-hour, 2-, 10- and 25-year storms.
- j. The location and type of all existing and proposed exterior **signs**.
- k. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the **lot**. Such covenants or deed restrictions shall be referenced on the plan.
- l. The location of all existing and proposed **building** setbacks, **yards** and buffers required by this Ordinance.
- m. Elevation view of the **building** and **signs**, showing **heights** and materials.

- n. Landscaping plan showing the **building(s)**, existing and proposed **vegetation**, walkways, and exterior lighting. Drawings to be at the scale designated in Section 4(E)(6).
- o. For any project that will dispose of its wastewater through any subsurface wastewater system, a completed Maine Department of Health, and Human Services (Maine DHHS) Health Engineering site evaluation and subsurface wastewater disposal system application showing adequate soils, and adequate system design and capacity.
- p. A schedule of construction, including anticipated beginning and completion dates, and the estimated total cost of the project.
- q. The **permitting authority** may, at its discretion, require the applicant to provide a visual impact assessment which may include photo simulations of the proposed facility taken from perspectives determined by the **permitting authority**, or its designee.
- r. Projects involving the storing, generating, or handling of hazardous wastes or materials, oil or radioactive wastes shall specify the exact amount and nature of all such substances that will be on the site, and the specific method of handling and containing those substances that will be used.
- s. An erosion control and sedimentation control plan setting forth the measures to be taken to comply with Section 6(C)(1).

7. Approval Block

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

8. Waivers sought by applicant

A list of the submission requirements for which the applicant seeks a waiver under Section 4(C), and a written explanation of the reasons that the waiver is sought.

K. Additional Reports for Specific Project Types

- 1. Projects with substantial waste water discharge (Section 3(K)) must submit a high intensity soil survey and a hydrogeologic assessment, which shall include, at a minimum, the following information:
 - a. A map showing basic soil types on the **lot**.
 - b. The depth of the water table at representative points throughout the **lot**.
 - c. Drainage conditions throughout the **lot**.
 - d. Data regarding the existing ground water quality, either from test wells on the **lot** or from existing wells on the **lot** or on **abutting lots**.
 - e. An analysis and evaluation of the impact of the project on ground water resources, including a projection of nitrate-nitrogen concentrations associated with the project. Projects within the watershed of a lake or pond shall include phosphate impact calculations.
 - f. The location of any existing or proposed subsurface wastewater disposal systems and wells on the **lot** and within two hundred (200) feet of the **lot lines**.

- g. Projections of post-development water quality at any wells within the **lot** or within five hundred (500) feet from the point of contamination, whichever is the shorter distance. These projections shall be based upon a drought condition assumption of sixty per cent (60%) of annual average recharge from precipitation.
- h. The signature and seal of the Certified Geologist who prepared the assessment.

The Planning Board may require additional information where necessary to evaluate the project's compliance with this Ordinance.

- 2. Projects with substantial groundwater extraction Section 4 (2) shall submit a groundwater extraction impact assessment which shall include, at a minimum, the following information:
 - a. A statement from the applicant specifying the quantity of ground water to be extracted expressed as the annual total, the maximum monthly rate by calendar month, and the maximum daily rate. These rates shall be maximum rates, which rates shall not be exceeded without further **Site Plan Approval** by the Planning Board.
 - b. For projects coming under the jurisdiction of the Maine DHHS, a letter from that agency containing its review comments.
 - c. A report prepared by a Certified Geologist showing:
 - i. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which the water is to be extracted. The map shall include sufficient detail to support a calculation of sustained yield during a ten (10) year drought, as well as an estimate of any potential interaction between or among this and adjacent aquifers.
 - ii. Calculations based upon the investigation showing the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly (by calendar month) and daily extraction rates, the cone of depression that may develop about the project and impacts upon the water table in the tributary aquifer and other private or public wells within one thousand (1,000) feet of the proposed extraction facilities.
- 3. Proposals for a **permissible solar farm** shall submit the following additional materials:
 - a. Evidence that the owner and operator of the proposal has adequate technical and financial capacity to adequately construct, operate, and decommission the permissible solar farm, including a statement or other documentation from a lending institution that the owner has secured financing to cover the cost of construction.
 - b. A statement prepared by a licensed professional engineer certifying that the permissible solar farm design is safe in terms of strength, stability, security, and grounding.
 - c. Plans prepared by a professional engineer or surveyor showing the location of all solar energy system components, existing and proposed structures, existing and proposed impervious surfaces, areas proposed to be cleared of vegetation, and their physical dimensions, including a calculation of the solar land area.
 - d. An operations and maintenance plan for the permissible solar farm, which must include the manufacturer-identified useful life of the facility and documentation of the entity that will be

legally responsible for operating, maintaining, and repairing the facility for the term of its useful life.

- e. A decommissioning plan for the removal of the permissible solar farm and stabilization of the site, which must include a proposed decommissioning time schedule and a statement of the owner's intent concerning the following:
 - i. Physical removal of any solar energy system components, structures, foundations, supports, fencing, or security barriers from the site.
 - ii. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal laws and rules.
 - iii. Stabilization or re-vegetation of the site as necessary to minimize erosion and return the site to substantially its pre-construction state.

Section 5. Site Plan Review Process

A. Purpose

The purpose of **Site Plan Review** is to promote the public health, safety, and general welfare by requiring **CEO** or Planning Board review of plans for certain uses or **structures** which have a significant potential impact on the neighborhood or the environment and which, when properly designed with respect to their surroundings, can become uses or **structures** that are compatible with the neighborhood and environment.

B. Prohibition

No activity or use requiring a **Site Plan Review Permit** shall commence until the applicant has been granted the requisite **Site Plan Approval** from the applicable **permitting authority** and complied with all other applicable provisions of this Ordinance.

C. Review Procedures

The procedures for **Site Plan Review** are as follows:

1. Submission of completed application to the CEO.

The applicant shall submit the requisite number of copies of the application and supporting information required by this Ordinance, as described in Section 4.

2. CEO classification and review
 - a. **Dated receipt**

The **CEO** shall issue the applicant a dated receipt and will date-stamp the application.

- b. Classification

The **CEO** shall review the application and classify it as either a **Major** or **Minor Development** in accordance with the provisions of this Ordinance.

c. Fees submitted

After classification, the applicant shall provide the **CEO** with the applicable review fees.

d. Review for completeness

The **CEO** shall initially review the application and determine whether or not it is complete.

e. Notice of incomplete application

If the application is found to be incomplete, the **CEO** shall, within ten (10) days, notify the applicant in writing of the information needed to complete the application. Upon the applicant's submission of such additional information, the process above shall be repeated.

3. Complete applications

Upon finding an application to be complete, the **CEO** shall take the following action with regard to that application.

a. Minor Developments

Applications determined to be **Minor Developments** will be reviewed and acted upon by the **CEO** in accordance with the procedures set forth below, and the other requirements of this Ordinance.

b. Major Developments forwarded to the Planning Board

The **CEO** shall forward copies of a complete application and supporting documents determined to be **Major Developments** to the members of the Planning Board and place the project on the agenda of the next regular Planning Board meeting occurring not more than forty (40) days after the **CEO** determines the application is complete.

c. Notice of public hearing to abutting lot owners

In the event that a public hearing will be held in connection with the project, the **CEO** shall notify **abutting lot owners** of the date, time, and place of such hearing by certified mail when the hearing date has been determined.

4. Planning Board Review

For **Major Developments**, the Planning Board shall meet to review the project as follows. The Planning Board shall:

a. CEO report

Hear any report of the **CEO** and, if the Town has retained the services of a professional adviser, the report of the adviser regarding the proposed project;

b. Applicant's response

Hear any comments of the applicant regarding the **CEO** and professional advisor reports;

c. Request for waivers

Hear any requests from the applicant for waivers;

d. Determination of completeness

Determine whether or not the application is complete;

e. Notice of incompleteness

If the application is determined to be incomplete, the Planning Board shall inform the **CEO** of the information required to make the application complete. The **CEO** shall, within ten (10) days, inform the applicant, in writing, of the additional information required by the Planning Board. Upon the applicant's submission of such additional material, previous steps in Sections 5(C)(2 through 4) shall be repeated; and

f. Public hearing determination

If the application is determined to be complete, the Planning Board shall set the matter for a public hearing conducted by the Planning Board. The public hearing shall take place within forty (40) days of the Planning Board's determination that the application is complete. This deadline may be extended by mutual agreement of the Planning Board and the applicant, either in writing or orally, on the record, at a public meeting.

5. Public hearing for Minor Developments

At the **CEO's** discretion, a public hearing may also be required for **Minor Developments**, in which case such public hearing shall be conducted by the **CEO** within forty (40) days of the **CEO's** determination that the application is complete. This deadline may be extended by mutual agreement, in writing, of the **CEO** and the applicant.

6. Deliberation and decision

a. Deliberation

Within forty (40) days after the public hearing on an application or, if no hearing is held, within forty (40) days of a determination of completeness by the **CEO**, the **permitting authority** shall decide the matter. For **Major Developments**, the Planning Board shall deliberate the matter at a

public meeting. **Site Plan Approval** shall be granted if the proposed project complies with all applicable criteria and minimum standards set forth in Section 6. This deadline may be extended by mutual agreement of the **permitting authority** and the applicant in writing, or (in the case of **Major Developments**) either in writing or orally, on the record, at a public meeting.

b. Decision

If the **permitting authority** finds that the proposed project complies with all criteria and minimum standards of this Ordinance it shall issue an order granting **Site Plan Approval** subject to such terms and conditions as the **permitting authority** finds are reasonably necessary to ensure conformity with the criteria and minimum standards of this Ordinance.

If the **permitting authority** finds that the proposed project does not comply with all applicable review criteria and minimum standards, it shall issue an order denying **Site Plan Approval**.

In either case the **permitting authority** shall, within fifteen (15) days after the completion of its deliberations, issue specific written findings of fact supporting its decision.

The decision shall state any conditions of approval that apply to the project and the reason for the imposition of those conditions. A copy of the decision shall be sent to the applicant at the address provided on the application. Decisions by the **CEO** shall also be sent to any **abutting lot owner** who responded, in writing, to the notice sent by the **CEO**.

c. Public Hearing Procedures

Site Plan Review public hearings and notice thereof shall comply with the following procedures:

i. Published notice

Notice of the hearing shall be published by the Town in a newspaper of general circulation in the Town of Winter Harbor at least fourteen (14) days prior to the hearing date.

ii. Content of notice

involved, describe the specific nature of the proposal, state the date, time, and place of the hearing.

iii. Rules

Hearings shall be conducted according to rules adopted by the Planning Board.

iv. Representation

At any hearing a party may be represented by an agent or attorney, provided, however, that if any party is not present, any **person** acting as that party's agent or attorney shall provide evidence of such authority.

v. Continuation

Any hearing may be continued or recessed to another time for good cause, or upon written or recorded agreement of the **permitting authority** conducting the hearing and the applicant.

d. Professional Review of Major Developments

i. Additional studies

The Planning Board may require the applicant to undertake any additional studies which it deems reasonable and necessary to ensure that the requirements of the Ordinance are met. The cost of all such studies shall be borne by the applicant.

ii. Independent technical review

The Planning Board may require that an independent consultant(s) review one (1) or more submissions of an application. The independent consultant(s) shall report to the Planning Board as to the project's compliance or non-compliance with the applicable provisions of this Ordinance and recommend, if appropriate, those actions which will result in compliance. Such consultants shall be fully qualified to provide the required information *in the State of Maine*, and may include, but not be limited to:

An Attorney;

A Registered Professional Engineer;

A Licensed Landscape Architect;

A Licensed Soil Scientist;

A Community Planner;

A Registered Architect;

A Registered Geologist;

A Registered Land Surveyor;

or

Any other Registered/Licensed Professional or Independent Expert Witness
deemed fully qualified by the Planning Board.

The consultant(s) selected shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost to the extent it exceeds the amount paid as a technical review fee (Section 4(E)(3)).

f. Failure to Act

Failure of the **permitting authority** to act within any of the time requirements set forth herein shall constitute a denial of the application.

g. Appeals

Any **aggrieved party** may appeal a decision to grant or deny a permit under this Ordinance, or the imposition of conditions of approval, to the Winter Harbor Board of Appeals.

h. Expiration of Approvals

Unless specifically authorized by the **permitting authority** at the time **Site Plan Approval** is granted, all **Site Plan Approvals** shall expire unless work on the project is **substantially commenced** within twelve (12) months from the date **Site Plan Approval** is granted. If work is not substantially completed within twenty-four (24) months from the date **Site Plan Approval** is granted, a new application and **Site Plan Approval** shall be required prior to the commencement of any project activity or use.

i. Other Permits

The granting of **Site Plan Approval** does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use. Such other required permits or approvals may include, but are not limited to, building and plumbing permits, permits required under other ordinances of the Town of Winter Harbor, licenses granted pursuant to 38 M.R.S.A., § 1022, Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, and Maine Department of Transportation approvals. The fact that the applicant may have obtained or may have been granted such permits or approvals prior to **Site Plan Review** may be considered by the Planning Board as evidence as to the project's compliance with applicable review standards, but shall not be deemed conclusive evidence as to compliance. The written order granting **Site Plan Approval** constitutes the **Site Plan Review Permit** for the project.

j. Access to Site and Records

The **CEO** shall have reasonable access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project. The applicant, by accepting **Site Plan Approval**, waives any objection to the **CEO** having access to the site to review the progress of the work or to review all records and documents related to the project.

Section 6. Site Plan Review Criteria

The **permitting authority**, in reviewing projects requiring **Site Plan Approval** under this Ordinance, shall make positive written conclusions and factual findings as to whether the applicant has submitted adequate evidence showing that the following criteria have been met.

In addition, the minimum standards listed in this Section shall govern all permits and approvals issued under this Ordinance. In reviewing applications submitted pursuant to this Ordinance, the **permitting authority** shall consider these minimum standards prior to issuing final approval. In all instances, the burden of proof shall be upon the applicant.

Parking and Loading

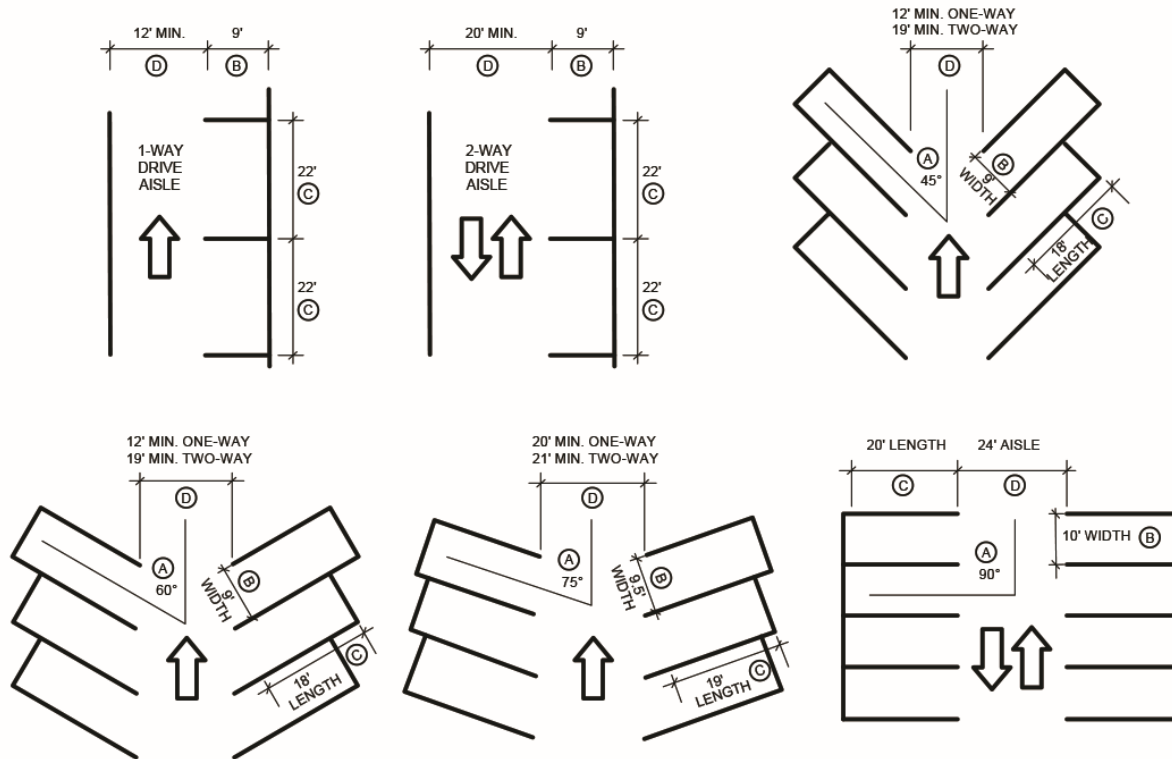
PARKING AREA GEOMETRICS

A = Stall angle, B = Stall width, C = Stall length, D = Aisle width (1-way/2-way)

A	B	C	D
0°	9.0'	22.0'	12.0/20.0' Min.
45°	9.0'	18.0'	12.0/19.0'
60°	9.0'	18.0'	15.0/20.0'
75°	9.5'	19.0'	20.0/21.0'
90°	10.0'	20.0'	(N/A)/24.0'

Off-street parking must conform to the following standards:

1. Parking areas with more than two (2) parking spaces must be arranged so that it is not necessary for vehicles to back into the street.
2. All parking spaces, access drives, and impervious surfaces must be located at least five (5) feet from any side or rear lot line, except where standards for buffer yards require a greater distance. No parking spaces or asphalt type surface shall be located within five (5) feet of the front property line. Parking lots on adjoining lots may be connected by access-ways not exceeding twenty-four (24) feet in width.
3. Parking stalls and aisle layout shall be as follows:



4. In lots utilizing diagonal parking, the direction of proper traffic flow must be indicated by signs, pavement markings or other permanent indications and maintained as necessary.
5. Parking areas for nonresidential uses must 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. Double stack 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.
6. Provisions must be made to restrict the "overhang" of parked vehicles when it might restrict traffic flow on adjacent through roads, restrict pedestrian or bicycle movement on adjacent walkways, or damage landscape materials.
7. Off Street Parking and Loading:
 - a. No structure shall be erected nor shall any of the following uses be established unless at least the minimum number of off-street parking spaces as provided below is provided. Off-street parking, either by means of open-air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any District.

- b. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use or as deemed appropriate by the Planning Board:
 - i. Residential - Two (2) parking spaces for each dwelling unit
 - ii. Home occupation - Minimum of two (2) additional spaces beyond two (2) spaces required for each dwelling unit
- c. Transient Accommodations:
 - i. Bed and Breakfast accommodations, motels, hotels, boarding houses, and inns with ten (10) rooms or less - Two (2) parking spaces plus one space for each guest room
 - ii. Motels, hotels, boarding houses, and inns with more than ten (10) rooms - One (1) parking space for each guest plus one (1) for each three (3) employees
- d. Schools - Five (5) parking spaces for each classroom plus one (1) for each four (4) employees
- e. Hospitals, Nursing Homes (bed facilities only)

One (1) parking space for every three (3) beds, plus one (1) for each employee based on the expected average employee occupancy
- f. Funeral Parlors - twenty (20) spaces or as determined by the Planning Board
- g. Theaters, churches, and other public assembly places - One (1) parking space for every four (4) seats or for every one hundred (100) square feet or major fraction thereof of assemblage space if no fixed seats.
- h. Retail Stores and Businesses - One (1) space for every two hundred (200) square feet of retail area, plus one for every two employees
- i. Automotive Repair and Service Stations - One (1) space for each regular employee plus one (1) space for each fifty (50) square feet of floor area
- j. Roadside Farm Stand-Four (4) spaces
- k. Restaurants, eating and drinking establishments - One (1) parking space for every four (4) seats, plus one (1) for every two (2) employees
- l. Drive-In Restaurants and Dairy Stands - Ten (10) spaces plus one additional space for each person serving or preparing food

m. Professional Offices and Public Buildings - One (1) parking space for every two hundred (200) square feet of working space

n. Other Commercial Recreation Establishments (mini-golf courses, etc.) the number of spaces deemed appropriate by the Planning Board

o. Industrial - One (1) parking space for each one and one half (1.5) employees, based on the highest expected average employee occupancy, plus employee, visitor, and customer parking to meet the needs of specific operations

p. Maritime activities - commercial and recreational. One (1) per every slip and or mooring and one (1) per every two employees

q. For uses not specifically listed in this section, the Code Enforcement Officer shall prescribe the number which in no case will be less than an adequate number for employees and customers and visitors anticipated on the site

r. Location On Other Property-. If the required automobile parking spaces cannot be provided on the same lot where the principal use is conducted, the Planning Board can permit that such spaces may be provided on other off-street property provided that such property lies within one thousand (1,000) feet of the main entrance to such principal use. Such automobile parking space shall be associated with the principal use and shall not thereafter be reduced or encroached upon in any manner, provided however, that it may serve different principal uses at different times of day.

s. If the applicant demonstrates to the Planning Board that the proposed project, which is outside the shoreland zone, will not have an adverse impact on parking congestion in the area, the Board may waive the parking standards.

B. Traffic Movement, Congestion and Safety

Criterion: Adequate provision has been made for traffic movement of all types, including pedestrian, into, out of and within the proposed project and any traffic increase attributable to the project will not result in unreasonable congestion or unsafe conditions on a **road** in the vicinity of the project. The **permitting authority** shall consider traffic movement both on-site and off-site in making its determination under this criterion.

Minimum Standards:

1. Vehicular circulation

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

- a. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
- b. The layout and design of access ways and parking areas shall provide for safe and convenient circulation of vehicles, including delivery vehicles, and prevent their backing out onto a street.
- c. All **roads** shall be designed to harmonize with the topographic and natural features of the site. The **road** network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

2. Pedestrian circulation

- a. The site plan must provide for a system of pedestrian ways within the development appropriate to the type and scale of development. This system must connect the major building entrances/exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system must be designed to link the project with residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect with amenities such as parks or open space on or adjacent to the site.

C. Soil Types, Erosion, Contamination, Drainage, etc.

Criterion: The project will be built on soil types which are suitable to the nature of the project and adequate provision has been made to avoid erosion, contamination of ground or surface waters, interference with adjacent land, over-burdening of natural or artificial drainage systems and/or any other adverse effects of inadequate drainage.

Minimum Standards:

1. Conservation, erosion, and sediment control.

- a. The procedures outlined in the erosion and sedimentation control plan prepared and submitted by the applicant shall be implemented during the site preparation, construction, and cleanup stages.
- b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the Maine Erosion and Sediment Control Best Management Practices (BMPs). To the extent the applicant cannot employ all of the BMPs, the application shall identify all BMPs from which relief is sought, together with the reason the BMP cannot be employed and any alternative measures proposed by the applicant. The **permitting authority** will determine whether to waive full compliance with the BMPs as part of its **Site Plan Review**.
- c. In addition:

- i.* The project shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
- ii.* Whenever feasible, natural **vegetation** shall be retained, protected, and supplemented;
- iii.* The disturbed area and the duration of exposure shall be kept to a practical minimum;
- iv.* Permanent (final) **vegetation** and mechanical erosion control measures shall be installed as soon as practicable;
- v.* The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an **abutting lot**, unless specifically permitted by the **permitting authority**.
- vi.* Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any **lot line** unless specifically permitted by the **permitting authority** and upon the prior written agreement of the **owner** of such **abutting lot**;
- vii.* Whenever sedimentation is caused by stripping **vegetation**, re-grading, or other development, it shall be the responsibility of the applicant to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible; and
- viii.* Maintenance of drainage facilities or watercourses originating completely on private property is the responsibility of the **applicant** to the point of open discharge at the **lot line** or at a communal watercourse on the **lot**.

2. Stormwater Management

Storm water management. Management of storm water shall meet the applicable standards and practices set forth in the latest edition of Chapter 500 Stormwater Management Rules and Stormwater Management for Maine as amended, Maine Department of Environmental Protection publications, and the standards of professional engineering practice. Storm water run-off shall be treated by the use of best management practices equivalent to those set forth in Stormwater Management for Maine. The natural state of watercourses, swales, and floodways shall be preserved to the extent practicable.

3. Groundwater protection

- a. The quantity of water to be taken from groundwater shall not substantially lower the water table, cause salt water intrusion into any existing well, cause unreasonable changes in groundwater flow, or unreasonable ground subsidence, based upon ten (10)- year drought water levels.
- b. The project shall not cause pollution or unreasonable diminution of the aquifer from which it is extracted.
- c. Any project located in a defined public water supply aquifer recharge area shall not have an unreasonable adverse effect upon that public water supply.
- d. Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Maine CDC Maximum Exposure Guidelines

(MEGs) for Drinking Water. Any violation of this standard shall be cause to order the immediate cessation of the use or activity responsible for the contamination.

e. The project shall not increase any contaminant concentration in ground water to more than one-half of the Primary Drinking Water Standards, nor more than the Secondary Drinking Water Standards (however, where existing ground water pollution already exceeds the Secondary Drinking Water Standards, the project shall not cause the concentration of the parameters in question to exceed one hundred fifty percent (150%) of the ambient concentration).

f. All projects shall be designed to minimize any increase in storm water runoff from the site from the natural predevelopment conditions. Storm water runoff systems should be designed to facilitate aquifer recharge where it is advantageous to compensate for groundwater withdrawals and infiltration, but should avoid recharge where the groundwater effects may be harmful.

g. Where possible, existing natural runoff control features such as berms, swales, terraces, and wooded areas shall be retained in order to reduce runoff. The use of enclosed components (such as pipes, etc.) should be minimized where natural systems are able to accommodate runoff.

h. Design of permanent runoff storage facilities should consider safety, appearances, recreational use, and the cost and effectiveness of maintenance operations in addition to the primary storage function.

i. Energy dissipaters and other forms of outfall protection shall be employed where enclosed drains discharge into soils subject to erosion.

j. Storm water management systems shall be maintained as necessary to ensure that they function properly.

If the project will result an increased total flow of runoff that will be discharged into the municipal storm sewer system, the applicant shall pay for the cost of improvements to the municipal system so that it will have the capacity to handle one hundred twenty five percent (125%) of the projected total flow. Payment shall be made within thirty (40) days of the date **Site Plan Approval** is granted. No construction may commence on the project before this payment is made.

D. Outdoor Displays and Storage Areas

Criterion: Adequate provision has been made to locate and design proposed outdoor display and/or storage areas so as to avoid any safety hazard to vehicular and pedestrian traffic on and off the site.

E. Hazards and Nuisances

Criterion: Adequate provision has been made to avoid any hazard to travel on public or private ways, or any glare or other nuisance to the use of adjoining public or private property.

Minimum Standards:

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1. Emissions

- a. Emissions of dust, dirt, fly ash, fumes, vapors, or gases which pose an unreasonable risk of harm to human health or the environment shall be prohibited.
- b. No land use activity shall be permitted to produce unreasonable, offensive, or harmful odors perceptible beyond the **lot lines**, measured either at ground or habitable elevations.

2. Lighting

- a. No land use activity shall be permitted to produce unreasonable glare or brightness beyond the **lot lines**.
- b. Lighting fixtures shall be shielded or hooded so that the lighting elements are not exposed to normal view of motorists, pedestrians, or **buildings on abutting lots**.
- c. Direct or indirect illumination shall not exceed 0.5 foot-candles upon residences on abutting lots.
- d. All exterior lighting shall be designed to ensure safe movement of people and vehicles, and to minimize adverse impact on **abutting lots** and **public roads**. Adverse impact is to be judged in terms of hours of use, hazards to people and vehicular traffic and potential damage to the value of **abutting lots**. Lighting shall be arranged to minimize glare and reflection on **abutting lots** and the traveling public.

3. Hazardous materials

- a. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the rules and regulations adopted by the State of Maine.
- b. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions to 38 M.R.S.A. §§ 541-560 which, among other things, establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground storage facilities and requires qualified personnel to oversee the removal of certain underground facilities.
- c. Oil and chemical storage shall be in conformance with rules and regulations adopted by the State of Maine applicable to the stored substance.

4. The applicant shall have the burden of proof to assure the Planning Board or **CEO** that all provisions of the above statutes have been met before **Site Plan Approval** may be granted.

F. Buffers, Screening, Landscaping, Natural Features

Criterion: Adequate provision has been made with regard to buffers, screening, landscaping and the preservation and enhancement of significant natural features.

G. Avoidance of adverse effects, generally

Criterion: Adequate provision has been made to avoid unreasonable adverse effects on the scenic or natural beauty of the area or the community in general, including scenic areas designated in the most recent Comprehensive Plan adopted by the Town, historic sites, archaeological resources, rare and irreplaceable natural areas, wildlife habitats including identified deer wintering areas, existing uses, air quality, water quality, or other natural resources within the Town or in neighboring towns.

Minimum Standards:

1. Any proposed land use activity that may disturb an archaeological site as determined by the Maine Historic Preservation Commission, or historic site which is listed on or eligible to be listed on the National Register of Historic Places, shall require the applicant to submit comments in writing from the Maine Historic Preservation Commission concerning the proposed project. These comments shall be considered by the **permitting authority** in deciding whether to grant the permit.

H. Avoidance of Adverse Effects on Nearby Properties

Criterion: Adequate provision has been made to prevent any undue adverse effect upon **abutting** or nearby **lots**.

Minimum Standards:

1. Wastewater disposal.

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

- a. All sanitary sewage from new or expanded uses must be discharged into a public sewage collection and treatment system when such facilities are currently available or can reasonably be made available at the lot line and have adequate capacity to handle the projected waste generation.
- b. If the public collection system is not at the lot line, but can be extended in the public right-of-way, the collection system must be extended by the owner and the new or expanded use collected to the public system. Such extension shall be required if the public system is within one hundred (100) feet of a new use with a design sewage flow of less than five hundred (500) gallons per day or within three hundred (300) feet of a new use with a design sewage flow of five hundred (500) or more gallons per day and the system has adequate capacity to accommodate the additional flow. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that collection to the public system will occur if and when the subsurface system needs to be replaced.

c. If the public system cannot serve or be extended to serve a new or expanded use, the sewage must be disposed of by an on-site sewage disposal system meeting the requirements of the Subsurface Wastewater Disposal Rules.

d. When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

2. Water Supply

The development must be provided with a system of water supply that provides each use with an adequate supply of water.

a. If the project is to be served by a public water supply, the applicant must secure and submit a written statement from the supplier that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to provide needed domestic and fire protection flows.

b. Where groundwater pollution exceeds the Primary Drinking Water Standards and the project is to be served by on-site ground water supplies, the applicant shall provide adequate evidence of the manner in which the water quality will be adequately improved or treated.

c. For **Major Developments** the applicant shall construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Planning Board may waive the requirement for dry hydrants or ponds only with the written concurrence of the Winter Harbor Fire Chief.

3. Utilities

a. The development must be provided with electrical, telephone and telecommunication service adequate to meet the anticipated use of the project. If the service in the street or on adjoining lots is underground, the new service must be placed underground.

4. Natural Features

a. Unless an acceptable landscaping plan is presented and approved by the Planning Board, the landscape must be preserved in its natural state insofar as practical by minimizing tree removal, disturbance, and compaction of soil, and by retaining existing vegetation insofar as practical during construction. Extensive grading and filling must be avoided as far as possible.

5. Lot line setback

a. Except as provided in Section 6(O)(1) and Section 6(H)(3)(c) below, all **structures** must be set back at least ten (10) feet from all **lot lines** and must be set back at least ten (10) feet from the edge of the traveled way of any **road**.

b. Original **non-conforming structures** are not subject to the setback requirements above; however, replacements or significant repairs to such **structures** shall be subject to such requirements except as provided in Section 6(H)(3)(c) below.

c. In the event a **non-conforming structure** is removed, damaged, or destroyed, such **structure** may be repaired or replaced, subject to the following provisions:

i. Any such reconstruction or replacement may not increase the **footprint** of the previous **structure** within the setback area. Furthermore, reconstructed or replaced **buildings** may not be sited within the **footprint** of a previous non-**building structure**.

ii. A permit for the project must be obtained within eighteen (18) months of the date of the damage, destruction, or removal of the **non-conforming structure**.

iii. The provisions of Section 6(A) and Section 6(B) will only apply to the same extent that they applied to the **non-conforming structure** and its **commercial use**.

iv. An existing **commercial use** of a **non-conforming structure** may be changed to another **commercial 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 **permitting authority**.

v. A permit for the repair or replacement of a **non-conforming structure** shall only be granted in the event no reasonable alternative is available. The historic appearance and context of the **non-conforming structure** shall be a factor in making the determination of reasonableness.

I. Municipal Services

Criterion: Adequate provision has been made to avoid any undue burden on municipal services including, but not limited to, water, fire, sewer, and police services.

Minimum Standards:

1. Municipal sewer system

a. Any project that will dispose of its wastewater through the municipal sewer system, and that will use more than thirty-three and one third percent (33 1/3%) of the excess capacity of any portion of the sewer collection system, treatment facility and/or its discharge permits, shall be approved only if the applicant pays the cost of replacing the excess capacity needed for the project. Payment shall be made within forty (40) days of the date **Site Plan Approval** is granted. No construction may commence on the project before this payment is made.

b. All discharges into the system shall be in accordance with the Sewer Use Ordinance for Town of Winter Harbor.

J. Provision for Proper Operation

Criterion: Adequate provision has been made to assure the proper operation of the proposed business(es) or activity(ies) on the site through the provision of adequate and appropriate safety measures, utilities, drainage, water supply, sewage disposal, solid waste disposal, access, parking and loading, and other necessary site improvements.

Minimum Standards:

1. For **Major Developments**, the project owner and operator of record shall have adequate technical and financial capacity to construct, operate, and decommission, as needed, the proposed development or land use activities on the site.

K. Campgrounds

Criterion: Campgrounds shall meet the following requirements, in addition to the other requirements of this Ordinance.

Minimum Requirements:

1. **Campsites** and all **structures** shall be located at least fifty (50) feet from any **lot** line, and at least one hundred (100) feet from any residence on an **abutting lot**.
2. **Campsites** shall be laid out and screened in such a manner that they are not visible from abutting **public roads**, residences, or approved **subdivision lots**.
3. No **recreational vehicle** shall be exhibited for sale on the **lot**.
4. Stored **recreational vehicles** shall be screened in such a manner that they are not visible from abutting **public roads**, residences, or approved **subdivision lots**.
5. Site density shall not exceed twenty (20) tent sites or sixteen (16) **recreational vehicle** sites per acre (excluding circulation **roads**).
6. **Campsites** located in a **shoreland area**, shall have a minimum **shore frontage** of seventy-five (75) feet.
7. A minimum of three hundred (300) square feet of off-**street** parking plus maneuvering space shall be provided for each **recreational vehicle**, tent, or shelter site.
8. There shall be a minimum of twenty-five (25) feet between **recreational vehicles**.
9. There shall be a minimum of seventy-five (75) feet between **recreational vehicles** and tent sites.
10. Each **recreational vehicle**, tent site or covered shelter site shall include at least one picnic table per site, and at least one (1) covered trash receptacle for every three (3) sites. Trash receptacles shall be emptied at least once per day.

11. There shall be one toilet and lavatory for each five (5) **campsites**. Water and sewage systems shall conform to state regulation.

12. Each **campsite** shall be equipped with a masonry or metal fireplace, the construction of which is approved by the Winter Harbor Fire Chief.

L. Signs

Criterion: Adequate provision has been made to ensure that any **signs** associated with the project do not create a safety hazard.

Minimum standards:

1. Shall conform to Town of Winter Harbor Directional & On-Premise Sign Ordinance.

2. Where vision may be obscured entering a **public road** the whole of a sign board or display elements of any free-standing **sign** shall be either below three (3) feet or above seven (7) feet in height above level.

3. Any free-standing **sign** located in any **yard** space abutting a **public road** shall be set back at least ten (10) feet from the edge of the traveled way of such **public road** and at least twelve (12) feet from all other **lot lines**. Where an existing **principal structure** is located within fifteen (15) feet of the edge of the traveled way of a **public road**, a free-standing **sign** may be located no closer than five (5) feet to the edge of the traveled way.

4. These **sign** design and placement standards shall not apply to the following:

a. Legal notices, identification, informational or directional control **signs** erected or required by a governmental entity; and

b. **Signs** that guide or direct traffic and parking on private property, but bear no advertising or commercial identification.

M. Site Conditions

Criterion: Adequate provision has been made to ensure that, during construction, the site and surrounding area is safe.

Minimum standards:

1. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition that could lead to personal injury or property damage, shall be immediately corrected by the applicant upon an order by the **CEO** or other authorized person. The applicant shall make provision for disposal of oil and grease from equipment, and the site area should be regularly treated to control dust from construction activity; and

2. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots, and debris. Excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the **CEO**.

N. Ordinance Conformity

Criterion: Adequate provision has been made to assure that the proposed project conforms in all respects with the provisions of this Ordinance.

O. Permissible Solar Farms

Criterion: Permissible solar farms shall meet the following minimum standards, in addition to the other requirements of this Ordinance.

Minimum Standards:

1. Minimum Setbacks. **Permissible solar farms** and all **structures** shall meet the following minimum setbacks:

	Minimum setback from any lot line	Minimum setback from any residence on an abutting lot
Local-scale solar farm	50 feet	100 feet
Large-scale solar farm	100 feet	100 feet
Solar microgrid	As the permitting authority determines is necessary to satisfy any other applicable requirements of this Ordinance	

2. The **height** of any ground-mounted solar photovoltaic (PV) panel associated with a **permissible solar farm** shall not exceed twenty-five (25) feet.

3. Decommissioning and Removal; Abandonment. The owner or operator of record of a **permissible solar farm** shall, at its expense, be responsible for the decommissioning and removal of the **permissible solar farm**, in compliance with a decommissioning plan approved by the **permitting authority**, within twelve (12) months of the end of the manufacturer-identified useful life of the solar photovoltaic (PV) technology, or 90 days of the receipt of a notice to the owner or operator of record of a determination by the **CEO** that the **permissible solar farm** has been abandoned. A **permissible solar farm** shall be considered abandoned if it ceases to generate electricity for a consecutive period of twelve (12) months. The **permitting authority** may extend the 12-month decommissioning deadline if the owner or operator of record demonstrates that the solar photovoltaic (PV) technology is likely to remain economically feasible for its intended use for longer than twelve (12) months after the end of its manufacturer-identified useful life.

4. Performance Guarantee. The **permitting authority** may, as a condition of approval, require the owner of a **permissible solar farm** to provide a performance guarantee in the form of an escrow account, irrevocable letter of credit, or other form satisfactory to the Town in an amount equal to the anticipated total cost of decommissioning. The amount of the performance guarantee may be reviewed and adjusted by the **permitting authority** from time to time during the manufacturer-identified useful life of the solar photovoltaic (PV) technology if the anticipated cost of decommissioning materially changes.

Section 7. Enforcement

A. Enforcement Authority

The **CEO** is authorized to enforce the provisions of this Ordinance, and to take legal action for enforcement at the direction of the Municipal Officers of the Town.

B. Violations

1. Any **person** who undertakes any land use activity listed in Section 3 as requiring a **Site Plan Review Permit**, without first obtaining such permit, violates this Ordinance. Each day that such use continues shall constitute a separate violation of this Ordinance.
2. Any **person** who, having received a **Site Plan Review Permit**, thereafter conducts the land use activity in such a manner contrary to any condition set forth in the **Site Plan Review Permit**, or to the provisions of this Ordinance, violates this Ordinance. Each day that such use continues shall constitute a separate violation of this Ordinance.
3. Every violation of this Ordinance may be prosecuted pursuant to 30-A M.R.S.A. § 4452.

Section 8. Post Approval Activities

A. Limitation of Approval

1. Construction must be substantially commenced within twelve (12) months of date of approval.
2. Construction must be substantially complete and the project must be operational within twenty-four (24) months of date of approval.
3. The applicant may apply for up to two (2) six-month extensions of either substantial commencement or substantial completion/commencement of operation dates. Such extensions will be reviewed and approved or denied by the Planning Board. Conditions under the Ordinance in place under which the original approval was granted will apply for the duration of the extension periods.
4. Under no circumstance will any extensions be allowed to prolong substantial completion or start of project operation beyond thirty-six (36) months after date of approval. If the applicant

wishes to complete the project after that time, the applicant must re-apply for a new approval under the terms of the Ordinance in effect at the time of said re-application.

B. Incorporation of Approved Plan

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

C. The Approved Plan shall be filed in the Town Office.

D. Improvement Guarantees

1. Application

a. Improvement Guarantee - The Planning Board may require the posting of an improvement guarantee in such amount and form as specified in subsection D.(I)(b) below as is reasonably necessary to ensure the proper installation of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

b. Upon substantial completion of all required improvements, the developer must notify the Planning Board of the completion or substantial completion of improvements, and must send a copy of such notice to the appropriate Municipal Officials. The respective Municipal Officials shall inspect all improvements and must file a report indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection.

c. The Planning Board shall either approve, partially approve, or reject the improvements on the basis of the report of the Municipal Officials.

d. If the improvements are approved, the guarantee shall be released. Where partial approval is granted, the developer shall be released from liability only for that portion of the improvements approved.

2. Form of Guarantee

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

a. Security Bond - The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.

b. Letter of Credit - The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.

c. Escrow Account - The applicant may deposit cash, or other instruments readily convertible into cash at face value, either with the Town of Winter Harbor, or in escrow with a bank. Any such account must

require Town approval for withdrawal and must stipulate that the Town can withdraw the money upon forty-eight (48) hour advance notice to the applicant to complete the guaranteed improvements.

E. Submission of As-Built Plans

Any project involving the construction of more than five thousand (5,000) square feet of gross floor area or ten thousand (10,000) square feet of impervious surface, must provide the Code Enforcement Officer with a set of construction plans showing the building(s) and site improvements as actually constructed on the site. These "as-built" plans must be submitted within forty (40) days of the issuance of a certificate of occupancy for the project or occupancy of the building.

F. Minor Changes to Approved Plans

Minor changes in approved plans necessary to address field conditions may be approved by the Code Enforcement Officer provided that any such change does not affect compliance with the standards or alter the essential nature of the proposal. Any such change must be endorsed in writing on the approved plan by the Code Enforcement Officer.

G. Amendments to Approved Plans

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant.

Any variation from the plans, proposals, and supporting documents, except minor changes that do not affect approval standards, is subject to Planning Board review and approval.

ARTICLE XI, Appeal Of Planning Board Actions

Appeal of any actions taken by the Planning Board with respect to this section shall be to the Board of Appeals.

ARTICLE XII, AMENDMENTS TO THE ORDINANCE

Amendments of this ordinance may be initiated by the Selectmen, the Planning Board, or as specified in Title 30-A M.R.S.A. §2522.

No proposed amendments to this ordinance shall be referred to the Town Meeting until the Selectmen have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the

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Town of Winter Harbor at least two (2) times with the date of first publication being at least fourteen (14) days prior to the hearing and the second at least seven (7) days prior to the hearing.

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

ARTICLE XIII, SEVERABILITY

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

Board of Selectmen:

Terry Bickford

Sandra Guphill

Robert Hemenway