

OTISFIELD, MAINE
SITE PLAN REVIEW ORDINANCE

TABLE OF CONTENTS

Section 1. PURPOSE.....	1
Section 2. AUTHORITY AND ADMINISTRATION	1
A..... Authority	1
B..... Administration	1
Section 3. APPLICABILITY.....	1
Section 4. APPLICATION PROCEDURE.....	3
A..... Pre-Application Meeting	3
B..... The Site Plan of Development Application shall include as a minimum:	3
C..... Application	5
D..... Application Fee	6
Section 5. REVIEW STANDARDS	6
A..... General Standards	6
B..... Special Regulations	20
Section 6. GENERAL PROVISIONS	24
A..... Waivers:	24
B..... Performance Guarantee:	24
C..... Expiration of Approvals:	24
D..... Minor Changes to Approved Plans:	24
Section 7. ENFORCEMENT	25
A..... Nuisances	25
B..... Code Enforcement Officer	25
C..... Legal Actions	25
D.....	25
Section 8. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES	25
A..... Validity and Separability	25
B..... Conflict with other Ordinances	25

Section 9. APPEALS	25
A..... Administrative Appeals	25
B..... Dimensional Appeals	26
C.....	26
D..... Appeal Procedure	26
E..... Appeal to Superior Court	27
F..... Reconsideration	27
Section 10. AMENDMENTS	27

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SITE PLAN REVIEW ORDINANCE

Section 1. PURPOSE

Large scale development or major land use changes have a profound effect upon the cost and efficiency of municipal services and upon the environment of the Town of Otisfield. Unplanned development may result in overcrowded schools and highways, increased costs of municipal services, degrading of the air and water quality, as well as the general health, safety and welfare of the residents.

The purpose of this Ordinance is to insure an orderly growth of the Town and to minimize the effects of that growth when caused by development, by way of, but not limited to: commercial, industrial, retail or institutional buildings, structures and/or uses, or campgrounds.

Section 2. AUTHORITY AND ADMINISTRATION

A. Authority

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A M.R.S.A., Section 3001.
2. This Ordinance shall be known as the "Site Plan Review Ordinance" of the Town of Otisfield, Maine, adopted and effective by vote of the Town Meeting.

B. Administration

1. The Planning Board of the Town of Otisfield, hereafter referred to as the "Board," shall administer this Ordinance.

Section 3. APPLICABILITY

A. This Ordinance shall apply to all development proposals for:

1. New or substantial enlargements of 500 square feet or 25% in area, whichever is less, in any 5 year period of commercial, retail, industrial, institutional and recreational building(s), structure(s), and uses.
2. Campgrounds.
3. New uses of existing structures or land or existing uses when such new uses would generate greater traffic, or which would employ new materials and/or processes or the sale of goods not normally associated with the previous use.
4. Resumption of legal uses which have been abandoned for at least two years which would require review if being newly established.
5. The placement of above-ground fuel storage tanks which contain 1,000 gallons in total or in combination.

6. Sand and gravel pits of ½ acre or more established after the effective date of this Ordinance, or expansions of greater than ½ acre of legally existing sand and gravel pits.
7. Uses designed specifically for waste storage and/or disposal or land application of residuals.

B. This Ordinance does not apply to:

1. Construction of detached single-family and two family dwellings and customary outbuildings for the use of the residents thereof.
2. Existing buildings or premises legally established prior to the adoption of this Ordinance unless one or more of the factors described in Section 3.A. 1 through 4 are present.
3. The normal and customary practices involved with forestry and timber management and traditional agriculture operations.
4. Bed and breakfast establishments with four bedrooms or less.
5. Accessory structures and uses.
6. Residence Based Businesses which meet the following conditions do not need Site Plan approval. However, any and all businesses, home occupations, or e-commerce conducted within a residence should complete a Residence Based Business application. This application is available from the Code Enforcement Officer and may be reviewed by the Planning Board for the purpose of Site Plan Review.
 - a. The business is incidental and secondary to the primary residential use of the premises;
 - b. At least one member of the residential household must own the business and be actively involved in the business and have control over the business activities. There will be not more than two full or part time employees working on the premises, other than immediate family members residing on the premises;
 - c. No more than two business vehicles with three or more axles may be operated from the premises;
 - d. Off- street parking must be provided for employees and customers;
 - e. The business shall not dispose of any wastes other than domestic sanitary sewage into a subsurface sewage disposal system;
 - f. Solid waste generation shall be less than two cubic yards per week. Waste shall be stored in closed, weather and rodent proof containers;
 - g. Hazardous or liquid waste (other than domestic sewage) generation shall be less than 5 gallons per week. Wastes shall be stored inside in water-tight, secure containers. Waste shall be disposed or recycled in accordance with State law;
 - h. Signs shall be limited to 8 square feet, shall be externally lit, and shall be no more than 10 feet in height.

Section 4. APPLICATION PROCEDURE

A. Pre-Application Meeting

1. Prior to submitting an application for development, the developer or his authorized agent should appear informally at a regular or special meeting of the Board to discuss the proposed development.
2. The developer shall present to the Board at this time, for informal review and comment, a description of the proposed use and a sketch plan of the proposed development. The sketch plan shall consist of a rough outline of the proposed development, and may be a free hand, penciled sketch of the parcel, showing the proposed layout of buildings, roads, parking areas and other features which may be of assistance to the Board to familiarize themselves with the proposed project.
3. The Board may request that the developer arrange for an inspection of the site with the Board.
4. No binding commitments shall be made between the developer and the Board at this stage. The purpose of the preapplication meeting shall be to understand what is proposed and what will be required in making an application.

B. The Site Plan of Development Application shall include as a minimum:

1. A map or maps prepared at a scale of not less than one (1) inch to 50 (fifty) feet and shall include:
 - a. name and address of the applicant or his authorized agent and name of proposed development and any land within 500 feet of the proposed development in which the applicant has title or interest;
 - b. soil types and location of soil boundaries certified by a soil scientist, geologist, engineer or Soil Conservation Service medium intensity soil surveys;
 - c. municipal tax maps and lot numbers and names of abutting landowners;
 - d. perimeter survey of the parcel made and certified by a Professional Land Surveyor relating to reference points, showing magnetic north point, graphic scale, corners of parcel and date of survey and total acreage;
 - e. existing and proposed locations and dimensions of any utility lines, sewer lines, water lines, easements, drainage ways or public or private rights-of-way;
 - f. location of test pits, and proposed location and design of the best practical subsurface disposal system for the site;
 - g. location, dimensions, design and exterior materials of proposed structures, on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exists of vehicles to and from the site on to public streets and curb and sidewalk lines;
 - h. landscape plan showing location, type and approximate size of plantings and location and dimensions of all fencing and screening;
 - i. existing and proposed topography indicating contours at intervals of either 5, 10 or 20 feet in elevation as specified by the Board;

- j. location of aquifers and aquifer recharge areas, if mapped.
 - k. location of wetlands, significant wildlife or fishery habitats, known archaeological resources, scenic locations as identified in the Comprehensive Plan and historic buildings or sites on the parcel or adjacent to the parcel.
 - l. The location, size and character of all signs and exterior lighting.
 - m. a storm water drainage plan showing:
 - 1. the existing and proposed method of handling storm water run-off.
 - 2. the direction of flow of the run-off through the use of arrows.
 - 3. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
 - 4. engineering calculations used to determine drainage requirements based upon a 25-year storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
 - n. location and elevation of the 100-year flood plain;
 - o. if the development site is located in the direct watershed of a great pond, the name of that watershed shall be indicated on the plan.
 - p. Where the plan was prepared by an architect, engineer, surveyor, geologist, soil scientist or other professional licensed or certified and issued a seal by the State of Maine, the preparer's seal shall be affixed to the plan.
2. A written statement by the applicant that shall consist of:
- a. evidence by the applicant of right, title or interest in the land that the application covers;
 - b. a description of the proposed uses to be located on the products to be manufactured, descriptions of and volume of manufacturing by-products and wastes, types of products to be warehoused and types of products to be sold.
 - c. total floor area and ground coverage of each proposed building and structure and percentage of lot covered by each building or structure;
 - d. a copy of existing and proposed easements, restrictions and covenants placed on the property;
 - e. method of solid and hazardous waste disposal;
 - f. erosion and sedimentation control plan;
 - g. copies of letters to the abutting landowners and selectmen, notifying them of the proposed development by certified mail return receipt requested. Copies of the receipts to be returned to the Board;
 - h. list of applicable local, state and federal ordinances, statutes, laws, codes, and

regulations;

- i. a municipal service impact analysis that includes a list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the Town of Otisfield or quasi-municipal districts. This list shall include but not be limited to: street reconstruction, maintenance, and snow removal; solid waste disposal; and fire protection. The applicant shall provide an estimate of the net increase in taxable assessed valuation upon completion of the project.
- j. a statement from the Fire Chief as to the availability of fire hydrants and/or fire ponds, or provisions of fire protection services;
- k. a statement from the Selectmen that the road or street that will serve the project has the capacity to serve traffic associated with the project;
- l. the size, location and direction and intensity of illumination and method of installation of all major outdoor lighting;
- m. the type, size and location of all machinery likely to generate noise at the lot lines;
- n. traffic data shall include the following when required by the Planning Board:
 - 1. the estimated peak hour and average daily traffic to be generated by the proposal;
 - 2. existing traffic counts on surrounding roads;
 - 3. traffic accident data covering the most recent three-year period for which such data is available.
- o. if located in the direct watershed of a great pond, a phosphorous control plan prepared in accordance with Section 5.14 .
- p. the type of any rare or endangered species found on the project parcel as listed by the Natural Areas Program of the Maine Department of Conservation;
- q. an estimate of the date when construction will start and when the development will be completed;
- r. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed and interest in financing the project.
- s. any additional information that the Board deems necessary.

C. Application

- 1. The application shall submit nine (9) copies of the site plan and nine (9) copies of the application to the Board at a regularly scheduled meeting. The Planning Board shall issue a dated receipt to the applicant. Within 30 days of receipt of an application, the Board shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant in writing and begin its review of the proposed development.
- 2. The Board may hold a public hearing within 30 days of the receipt of a complete application.

The Board shall publish the time, date and place of the hearing at least two times, the date of the first publication to be at least seven days prior to the hearing in a newspaper of area wide circulation. The abutting landowners shall be notified 7-14 days prior to the hearing by the Planning Board of the hearing by certified mail return receipt requested. Public hearings by the Board shall be conducted according to the procedures outlined in Title 30-A, M.R.S.A., Section 2691, Subsection 3(A), (B), (C), (D) and (E).

3. Within 45 days of the public hearing or 90 days of receiving a completed application, if no hearing is held, the Board shall make Findings of Fact on the application and either approve, approve with conditions, or disapprove the application. The Board shall specify, in writing, its Findings of Facts, conditions, or reasons for denial. The time limit for review may be extended by mutual agreement between the Board and the applicant.
4. Within seven (7) days of reaching their decision, the Board shall notify the applicant in writing of any action taken and the reason for taking such action.

D. Application Fee

1. All applications shall be accompanied by a fee (refer to the Fee Schedule located on the town website CEO page) The Board of Selectmen have the sole authority to revise the application fee and require any adjustments to the applicant's escrow account.
2. A review escrow account equal to 2% of the estimated project cost shall be deposited in an escrow account established by the Town, which moneys may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with written or verbal notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. Those moneys deposited by the developer and not spent by the Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

Section 5. REVIEW STANDARDS

A. General Standards

The Board shall approve, deny, or approve with conditions all applications for a site plan review. The applicant shall have the burden of proving that his/her application is in compliance with the requirements of this Ordinance. After the submission of a complete application, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

1. **Preserve and Enhance the Landscape:** The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be designed and planted that will define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the physical design of the building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.

Environmentally sensitive areas which include wetlands, significant wildlife and fishery habitats, unique natural features, historic districts, buildings and sites and archaeological sites as identified in the Town of Otisfield Comprehensive Plan shall be conserved to the maximum extent.

2. **Relationship of the Proposed Buildings to Environment:** Proposed structures shall be related

harmoniously to the terrain and to existing buildings in the vicinity which have a visual relationship to the proposed buildings. When a project will involve the exterior alteration of a historic building or is adjacent to a historic building and/or site the proposed alteration or new building shall be compatible with the architectural character. Special attention shall be paid to the bulk, location and height of the building(s) and such natural features as slope, soil type and drainage ways. The Board shall consider the following criteria.

a. Architectural style is not restricted. Evaluation of the appearance of a project shall be based on the compatibility of its design, that include complementary building style, form, size, color and materials.

b. Materials shall be selected for suitability to the type of buildings and the design in which they are used. Buildings shall have the same materials, or those that are architecturally harmonious, used for all building walls and other exterior building components wholly or partly visible from public ways.

c. Building components, such as windows, doors and eaves, shall have good proportions and relationships to one another.

d. Mechanical equipment or other utility hardware on roof, ground or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so visibility from any public way is minimized.

e. Refuse and waste removal areas, auto parts, service yards, storage yards, and exterior work areas shall be screened from view from public ways, using materials as stated in criteria for equipment screening.

3. **Vehicular and Pedestrian Access:** The proposed site layout shall provide for safe entrances and exists from public and private roads by providing adequate locations, numbers and control of access points including site distances, turning lanes, and traffic signalization when required by existing and projected traffic flow on the municipal road system and for pedestrian ways within the development appropriate to the type and scale of the development. The Board shall consider the following criteria.

a. Vehicular Access: The proposed site layout shall give special consideration to the location, number, and control of access points, adequacy of adjacent streets and traffic flow.

1) The proposed development shall provide safe vehicular access to and from public and private streets. The applicant for a development to be located on a parcel of land of ten (10) acres or greater or five hundred (500) feet or more of frontage on a public street shall file a conceptual Access Master Plan with the Board. The conceptual Access Master Plan shall address the overall use of the parcel, the overall vehicular circulation system within the parcel and the coordination of access into and out of the site.

The conceptual Access Master Plan shall demonstrate how the requirements for access as contained in this section will be met.

After the Conceptual Access Master Plan has been filed with the Board, any application for approval shall be consistent with the plan unless a revised plan is filed.

a) Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by

the development.

The Board may approve a development not meeting this requirement if the applicant demonstrates that:

(1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

(2) The applicant shall assume financial responsibility for the improvements necessary and will guarantee the completion of the improvements within one (1) year of approval of the project.

b) Any exit driveway or driveway lane shall be so designed in profile and grading and so located as to provide the following minimum sight distance measured in each direction. The measurements shall be from the driver's seat of a vehicle standing on that portion of the exit driveway from distances of between 10 and 15 feet behind the curbline or edge of the shoulder with the height of the eye 3.5 feet to the top of an object 4.25 feet above the pavement.

MINIMUM SIGHT DISTANCE

Posted Speed Limit	Minimum Sight Distance
25 mph	155'
30 mph	200'
35 mph	305'
40 mph	360'
45 mph	425'
50 mph	495'
55 mph	570'

c) Where more than one business or structure is located on a single parcel, all vehicular access to and from a public or private road may be required via a common access or entrance way(s) serving all business and structures except as provided for herein.

d) The grade of any exit driveway or proposed street for a distance of fifty (50) feet from its intersection with any existing street will be a maximum of three (3) percent.

e) Projects generating 400 or more vehicle trips per 24-hour period *may* provide two or more separate points of vehicular access into and out of the site.

f) The Board may require the applicant to conduct a traffic impact study. In making the determination as to the need for a traffic impact study, the Planning Board shall consider the following:

(1) the proposed development will generate 100 or more peak hour site trips in the peak direction of flow (inbound or outbound).

(2) The existence of a current safety problem in the area: high accident location, confusing intersection, etc.

(3) Current or projected capacity deficiencies near the development.

(4) Sensitive neighborhood areas adjacent to the development.

(5) The proximity of site drives to other drives or intersections.

2) Vehicular access to Routes 117, 121, and arterial roads shall comply with the following provisions in addition to the above. Where conflicts exist between this subsection and above, this subsection shall apply.

a) Where a proposed development is to be located at the intersection of 117 or 121, and a minor or collector road, entrance(s) to and exit(s) from the site shall be located only on the minor or collector road, provided that this requirement may be waived where the applicant demonstrates that existing site conditions preclude the location of a driveway on the minor or collector road, or that the location of a driveway on the minor or collector road would conflict with residential areas.

b) Curb cuts or access points *may* be limited to one per lot for all lots with less than 150 feet of road frontage. For lots with 150 feet and greater of road frontage, a maximum of one curb cut per 150 feet of frontage shall be permitted to a maximum of two, provided the Board makes a finding that (a) the driveway design relative to the site characteristics and site design provides safe entrance and exit to the site and (b) no other practical alternative exists.

c) The maximum number of curbcuts to a particular site shall be governed by the following:

(1) No low volume traffic generator shall have more than one two-way access onto a single roadway.

d) Curb cut widths and design shall conform to the following standards:

(1) Low volume driveways: Defined as driveways with less than 50 vehicle trips/day based on the latest edition of the Institute of Traffic Engineers' Trip Generation Report, as the same may be amended from time to time shall:

(a) have two-way operation;

(b) intersect the road at an angle as close to 90 degrees as site conditions permit, but at no less than 60 degrees;

(c) not require a median;

(d) slope from the gutter line on a straight slope of 3 percent or less for at least 50 feet, with a slope no greater than 8 percent except where unique site conditions permit a waiving of the slope standard to 10 percent; and

(e) comply with the following geometric standards:

NOTE: The Board may vary these standards due to unique factors such as a significant level of truck traffic.

Item	Desired Value (ft.)	Minimum Value (ft.)	Maximum Value (ft.)
Radius	15-25*	10	15-25*
Drive Width	20-30*	20	24-30*

*Upper values apply where major street speed and/or volume is high.

- (3) Medium volume driveways with more than 50 vehicle trips/day but fewer than 200 peak hour vehicle trips, based on the latest edition of the Institute of Traffic Engineers' Trip Generation Report, as the same may be amended from time to time, and generally including all land uses not in the low or high volume groups shall:
- (a) have either two-way or one-way operation and be a minimum of 50 feet in length;
 - (b) intersect the road at an angle as close to 90 degrees as site conditions permit, but at no less than 60 degrees;
 - (c) not require a median;
 - (d) slope upward from the gutter line on a straight slope of 3 percent or less for at least 50 feet and a slope of no more than 6 percent thereafter, with the preferred grade being a 4 ½ percent, depending on the site; and
 - (e) comply with the following geometric standards;

NOTE: The Board may vary these standards due to unique factors such as a significant level of truck traffic.

Item	Desired Value (ft.)	Minimum Value (ft.)	Maximum Value (ft.)
ONE WAY Radius Drive Width-each	30 20-24	25 20	40 24
TWO WAY Radius Drive Width	30 26-36*	25 24	40 30-40*

*Where separate left and right exit lanes are desirable.

- (4) High volume driveway defined as driveways with more than 200 peak hour vehicle trips and generally 25,000 sq. ft. or more of retail space, or 75,000 sq. ft. or more of office space, or 150,000 sq. ft. or more of industrial space, shall:
- (a) have two-way operations separated by a raised median of 6 to 10 feet in width and be a minimum of 50 feet in length.
 - (b) intersect with the road at an angle as close to 90 degrees as possible but at no less than 60 degrees;
 - (c) be striped for 2 to 4 lanes, with each lane 12 feet wide;
 - (d) slope upward from the gutter line on a straight slope of 3 percent or less for at least 75 feet and a slope of no more than 5 percent thereafter;
 - (e) have a "STOP" sign control and appropriate "Keep Right" and "Yield" sign controls for channelization; signalization may be required. Level of service and traffic signal warrants should be conducted for all high volume drive-ways; and
 - (f) comply with the following geometric standards;

NOTE: The Board may vary these standards due to unique factors such as a significant level of truck traffic.

Item	Desired Value (ft.)	Minimum Value (ft.)	Maximum Value (ft.)
W/O CHANNELIZATION			
Radius	50	30	50
Drive Width	24	20	26
Median	6	6	10
W/CHANNELIZATION			
Radius	100	75	100
Drive Width	24	20	26
Median	6	6	10

*For industrial developments with a high percentage of truck traffic maximum values are desired.

e) Distance from edge of driveway corner (point of tangency) to edge of intersection corner (point of tangency) shall be as follows:

Driveway	Minimum Corner Clearance (feet)	
	Intersection Signalization	Intersection Unsignalization
Low Volume <50-100 trips/day	150	50
Medium Volume >50-100 trips/day <200 trips/hour	150	50
High Volume >200 trips/hour	500	250

f) The minimum distance between driveways shall be measured from the center of the driveways and shall be a function of highway need according to the following table. Where these standards would prohibit access to a lot, the Board shall have the authority to waive the minimum spacing standards.

MINIMUM DISTANCE BETWEEN DRIVEWAYS ON ONE PARCEL

Highway Speed	Minimum Spacing
20 mph	85 feet
25 mph	105 feet
30 mph	125 feet
35 mph	150 feet
40 mph	185 feet
45 mph	230 feet
50 mph	275 feet

g) Minimum distance between driveways serving the same parcel, measured from point of tangency to point of tangency by type of driveway, shall be as follows:

Driveway Type	Minimum Spacing to Adjacent Driveway by Driveway Type		
	Medium feet	High w/o RT feet	High w/RT feet
Medium Volume	75		
High Volume W/O RT (without right-turn channelization)	75	150	
High Volume W/RT (with right-turn channelization)	75	250	500

h) The minimum distance between driveway to property line, as measured from point of tangency shall be:

Driveway Type	Minimum Spacing to Property Line (ft.)
Low Volume	10
Medium Volume	20
High Volume (without right-turn channelization)	75
High Volume (with right-turn channelization)	75

The minimum spacing to property line may be varied if (1) the safest point of access to the site is closer to the property line and (2) there are at least 20 feet of separation between low volume driveways serving adjacent parcels, 40 feet of separation between medium volume driveways, and 150 feet of separation between high volume driveways.

i) When the proposed development is to be located on the opposite side of an existing development, the driveway shall be directly opposite of the existing driveway or separated from the opposite driveway by a minimum of seventy-five (75) feet whenever possible.

j) When a conversion or expansion of an existing use occurs, access shall be upgraded to comply with these standards. This requirement may be waived upon a written finding that (a) the need to demolish or relocate an existing

building on the site or (b) denial of full access to arterial streets where full access presently exists and cannot be provided by arterial streets and/or adjacent side street.

4. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives and parking areas shall provide for safe general interior circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and arrangement and uses of parking areas. The location of parking to the side or rear of buildings is encouraged.

- a. A use shall not be extended and no structure shall be constructed or enlarged unless sufficient off-street parking space is provided that conforms to the following:
 - 1) Parking areas shall be arranged so that it is not necessary for vehicles to back into the street.
 - 2) Where the development will abut an existing or potential parking area, provisions shall be made for internal vehicular connections.
 - 3) Parking areas shall be designed to permit each motor vehicle to proceed to and from parking space provided for it without requiring the moving of any other motor vehicle.
 - 4) Off-street parking spaces shall comply with the following standards.
 - (a) Except as provided below, each parking space shall contain a rectangular area at least eighteen (18) feet long and nine (9) feet wide. Lines demarcating parking spaces may be drawn at various angles in relation to curbs and aisles, so long as the parking spaces so created contain within them the rectangular required by this section.
 - 5) Required off-street parking for lots which cannot provide their own parking because of location, lot size or other existing development may be substituted by parking facilities which, in the public's interest, may be provided for by the Town of Otisfield or private parking resources. No such public or private off-street parking shall be considered as a substitute unless located within 500 feet of the principal building or use as measured along lines of public access.

If the required off-street parking is to be provided by off-site private parking such areas shall be held in fee simple by the owner of the use served, or in other tenure as assures continued availability for parking as long as the particular land will be needed for such use provided that if the tenure is other than ownership in fee simple, the form of the tenure shall be approved by the Selectmen prior to final approval by the Board.

- 6) The joint use of a parking facility by two or more principal buildings or uses may be approved by the Board where it is clearly demonstrated that said parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
5. **Surface Water Drainage:** Adequate provision shall be made for disposal of all storm water generated within the development through a management system of ditches, swales, culverts, underdrains, and/or storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

- a. All components of the storm water management system shall be designed to meet the criteria of a 25-year storm.
 - b. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
 - c. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increase in upstream runoff.
 - d. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
6. **Utilities:** The development shall not impose an unreasonable burden on public utilities.
 7. **Advertising Features:** The size, location, design, and materials of all exterior signs and outdoor advertising structures or features shall not detract from the design of proposed buildings and structures and the surrounding properties. Exterior signs and other advertising features if will be lighted shall be lit by shielded non-flashing lighting.
 8. **Special Features of the Development:** Exposed storage areas, exposed machinery installation, service areas, truck loading areas, utility buildings and similar structures shall be subject to such setbacks, plantings or other screening methods to provide an audio-visual buffer to minimize their adverse impact on other land uses within the development area and be screened from view from surrounding properties.
 9. **Exterior Lighting:** Exterior lighting shall provide for security, safety and operational needs. Exterior lighting shall be designed to minimize glare that creates hazards to vehicle traffic, light trespass onto adjacent properties or night sky glow. Fully shielded or hooded exterior light fixtures shall be used.
 10. **Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures.
 11. **Municipal Services:** The development will not have an unreasonable adverse impact on existing community services and facilities. When the Board finds based on a recommendation of the selectmen and the results of any municipal impact analysis that municipal services do not have the capacity to provide services to the proposed development the Board will require one or more of the following.
 - a. A voluntary payment to the Town of Otisfield to mitigate the direct impact to municipal services that has been identified as the consequence the proposed development. Any such payment shall be subject to the following provisions.
 - 1) The Board, with advice from the Selectmen, shall find that the money offered will mitigate the identified direct impact of the subdivision.
 - 2) The payment shall be held in a reserve account and may only be expended to fund capital improvements agreed on by the applicant and Board to mitigate the identified direct impacts.

- 3) The payment in all cases shall be expended within five years of collection, unless otherwise agreed upon the Board and applicant.
 - 4) Any payment not expended shall be refunded to the property owner(s) of record at the time of the refund with interest as earned by the Town of Otisfield for the period the payment was held by the Town.
 - b. The applicant will undertake required improvements necessitated by the development.
 - c. Deny the development.
12. **Surface Water Quality:** The proposed development will not result *in* surface water pollution. In making this determination, it shall at least consider the elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and, if necessary, their ability to adequately support waste disposal and/or any other approved licensed discharge; the slope of the land and its effect on effluents; the aquifers and aquifer recharge area; the availability of streams for disposal of surface runoff; and the applicable federal, state and local laws, ordinances, codes and regulations.
13. **Conservation, Erosion and Sediment Control:** Soil erosion and sedimentation of water-courses and water bodies shall be minimized. The following measures shall be included, where applicable, as part of any Site Plan Review and approval.
- a. Stripping of vegetation, regrading or other development shall be done in such a way as to minimize erosion.
 - b. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
 - c. The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
 - d. Disturbed soils shall be stabilized as quickly as practical.
 - e. Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
 - f. The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
 - g. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
 - h. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
 - i. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.
 - j. The standards set forth in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices (March 1991 and as amended) shall be employed.

14. **Phosphorous Export:** Phosphorus, a natural nutrient, stimulates algal growth that causes a significant decline in water quality. The primary source of new and increasing phosphorus loads in Maine lakes is development-residential, commercial, and industrial. Its impact on water quality is permanent. The following phosphorus control measures were created and designed to address this concern.
- a. Development proposed within the direct watershed of a lake or pond listed below shall be designed to limit phosphorus runoff to the levels defined below.

Table 1

Post Development Phosphorus Export by Watershed

Lake Name	DDA	ANAD	AAD	GF	D	F	WQC	LOP	C	P
Little Pond	340	25	315	0.25	79	2.6	mod-sensitive	medium	1.00	0.033
Moose Pond	1153	100	1053	0.25	263	10.18	mod-sensitive	medium	1.00	0.0387
Pleasant Lake	2841	300	2541	0.35	889	55.89	outstanding	high	0.50	0.0314
Saturday Pond	835	70	765	0.25	191	9.17	mod-sensitive	high	0.75	0.036
Sebago Lake	11986	1000	10986	0.3	3296	357.69	outstanding	high	0.50	0.0543
Thompson Lake	8806	750	8056	0.3	2417	143.58	outstanding	high	0.50	0.0297

¹ The pounds per year of phosphorus from the watershed that would produce an increase in phosphorus concentration by more than 1.0 parts per billion.

The Board shall keep an accurate record of subdivision approvals granted by watershed using an appropriate record keeping system, and shall review actual development rates and recommend adjustments to the table at two year intervals. The Board may seek guidance from the Lakes Environmental Association in making such adjustments.

- DDA** Direct land drainage area in Township in acres
- ANAD** Area not available for development in acres
- AAD** Area available for development in acres
- GF** Growth factor
- D** Area likely to be developed in acres
- F** lbs. phosphorus allocated to towns share of watershed per ppb in lake
- WQC** Water quality category
- LOP** Level of protection
- C** Acceptable increase in lake's phosphorus concentration in ppb
- P** lbs. per acre phosphorus allocation (FC/D)

b. Phosphorus export from a proposed subdivision shall be calculated according to the procedures defined in "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development" (Maine DEP et.al., September 1989 with revision in 1992 and as may be amended). Copies of all worksheets and calculations shall be submitted to the Planning Board.

c. Phosphorus control measures shall meet the design criteria contained in "Phosphorus Control in Lake Watersheds: A Technical Guide for Reviewing Development" (Maine DEP et al., September 1989 with revisions in 1992 or as may be amended). The Board shall require the reasonable use of vegetative buffers, limits on clearing, and minimizing street lengths, and shall encourage the use of other nonstructural measures prior to allowing the use of high-maintenance structural measures such as infiltration systems and wet ponds.

15. **Ground Water:** The proposed development shall not result in undue affect of the quality or quantity of ground water. In making this determination, the Board shall consider the location of aquifers and aquifer recharge areas, the nature of the proposed development and its potential threat to ground water resources. The Board may place conditions upon an application to minimize potential impacts to the Town's ground water resources.

- a. The development will not result in the existing ground water quality becoming inferior to the physical, biological, chemical, and radiological levels for raw and untreated drinking water supply sources specified in the Maine State Drinking Water Regulations, pursuant to 22 M.R.S.A., Section 601. If the existing ground water quality is inferior to the State Drinking Water Regulations, the development will not degrade the water quality any further.
- b. For above ground fuel storage and chemicals or industrial wastes and potentially harmful raw materials, an impermeable diked area shall be provided; the diked area must be sized to contain 110% of the total volume of the largest tank plus piping; roofed to prevent accumulation of rainwater in the diked area and shall be property vented. There shall be no drains in the facility. All concrete, whether walls or pads, shall be reinforced concrete and shall be designed by a Professional Engineer Registered in the State of Maine when required by the Board.
- c. Underground petroleum tanks shall be installed in accordance with the standards promulgated by the Maine Board of Environmental Protection.
- d. The Board shall utilize the following standards in addition to the criteria contained in Section a-c above for reviewing development applications located on a mapped sand and gravel aquifer.

The boundaries of the sand and gravel aquifers shall be delineated as on the Sand and Gravel Aquifer Maps at a scale 1:24,000 for the quadrangles of Otisfield and Casco, Maine prepared by the Maine Geological Survey. When boundaries of the sand and gravel aquifer are disputed due to the lack of sufficient detail on the available maps, the applicant may submit hydrological evidence prepared by a geologist, certified in the State of Maine, which identifies actual field locations of the aquifer boundaries within the project area.

- 1) No use shall dispose of other than normal domestic waste water on site without approval of the Board. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules, and ordinances.
- 2) Indoor use or storage facilities where hazardous materials, wastes, or other liquids with the potential to threaten groundwater quality are used or stored shall be provided with containment which is impervious to the material being stored and have the capacity to contain 10 percent of the volume of the containers or 110 percent of the volume of the largest container, whichever is larger.

- 3) Petroleum and other hazardous material storage and transfer. A Spill Control and Countermeasure Plan shall be submitted and approved by the Board.
- 4) In those areas identified as sand and gravel aquifers as defined in subsection d. above, the following newly established land uses are prohibited unless the Board finds that no discharges will occur such that water quality at the property line will fall below State Drinking Water Standards and all provisions of this Ordinance.

<p>dry cleaners printers laundromats salt piles/sand-salt piles leather tanning plastic/fiberglass fabricating auto graveyard/junkyard chemical manufacturing metal plating/finishing industrial waste disposal/impoundment areas</p>	<p>photo processors auto washes meat packers/slaughter houses wood preservers electrical equipment manufacturers chemical reclamation facilities cemetery pesticide/herbicide stores concrete/asphalt/coal companies</p>
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16. **Air Emissions:** No emission of dust, ash, smoke or other particulate matter or gases and chemicals shall be allowed which can cause damage to human or animal health, vegetation or property by reason of concentration or toxicity, which can cause soiling beyond the property boundaries, or which fail to meet or cannot meet the standards set by the Maine Department of Environmental Protection.

In making this determination, the applicant shall consult federal and state authorities to determine applicable air quality laws and regulations, and furnish such evidence to the Board.

17. **Electromagnetic Interference:** The development shall not produce electromagnetic interference with radio, television or internet reception.
18. **Odor Control:** The proposed development shall not produce offensive or harmful odors perceptible beyond their lot lines either at ground or habitable elevation.
19. **Water Supply:** The development has sufficient water available for intended use. When the location of the water supply source will be a public water supply as defined in Title 22 M.R.S.A. Section 2601, its location shall not restrict the location of a subsurface sewage disposal system on adjacent parcels. If subsurface sewage disposal will be restricted, the applicant shall obtain an easement.
20. **Sewage Disposal:** The development shall provide for a suitable sewage disposal.
 - a. All individual on-site systems will be designed by a licensed soil evaluate in full compliance with the Maine Subsurface Wastewater Disposal Rules.
 - b. The Board may require an analysis and evaluation including nitrate-nitrogen concentrations of the impacts of the subsurface sewage disposal system on ground water. The Planning Board shall base its determination for the need for an analysis and evaluation on density, designed flows and nature of wastewater.
21. **Waste Disposal:** The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.
 - a. All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

- b. All hazardous waste will be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

22. **Scenic locations and Views:** The Board shall assess the proposed activities impact upon scenic areas and views as identified in the Town of Otisfield Comprehensive Plan. Where the Board finds that the proposed activity would have an undue adverse effect on identified scenic views, the Board shall require the applicant to minimize such effects.

23. **Noise:** The proposed development shall not raise noise levels to the extent that abutting and/or nearby residents are adversely affected. Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

The following uses and activities shall be exempt from the sound pressure level regulations:

- a. Noises created by construction activities between 6:00 a.m. and 8:00 p.m.
- b. The noises of safety signals, warning devices, and emergency pressure valves and any other emergency activity.
- c. Traffic noise on public roads.

24. **Protection of Significant Wildlife Habitat:** Applicants proposing a development in or within seventy-five (75) feet of significant wildlife resources or fisheries habitats as identified by the Maine Department of Inland Fisheries and Wildlife shall consult with a recognized wildlife or fisheries consultant or the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board. The Board shall consider any recommended measures provided to minimize impacts on such habitats.

25. **Archaeological Sites:** Any proposed development activity involving structural development or soil disturbance on, or adjacent to, sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the Planning Board, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment at least 20 days prior to final approval. The Board shall consider comments received from the Commission prior to rendering a decision on the application.

26. **Endangered and Threatened Plants:** The Board shall consider the existence of endangered or threatened plants as may be identified by the Maine Natural Areas Program. As a condition of approval the Board may require the applicant to undertake protective measures as recommended by the Maine Natural Areas Program.

27. Is in conformance with the Comprehensive Plan for the Town of Otisfield, Maine, and Town of Otisfield ordinances.

28. **Financial and Technical Capacity:** The Board shall find that the applicant has adequate financial and technical capacity to meet the standards of this Ordinance.

29. **Site Conditions-**

a. During construction, the site shall be maintained and left each day in a safe and sanitary manner. Dust from construction activity shall be controlled.

b. Developed areas shall be cleared of all stumps, litter and rubbish and excess or scrap building materials shall be removed or destroyed immediately upon the request and to the satisfaction of the Code Enforcement Officer prior to use.

c. No significant change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved Site Review Plan.

B. Special Regulations

The following regulations shall be complied with in addition to the General Review Standards contained in Section 5.A of this Ordinance.

1. An institutional use requiring federal, state and or local licensing shall not begin operations until all licenses and permits are obtained.
2. The applicant for a residential institutional use shall furnish the Board detailed information relating to projected numbers and types of clients; planned and projected numbers of staff and duties, so that the Board can determine the availability of necessary Town services.
3. The Board, as a condition of approval, may require assurances or bond to protect the health, safety and general welfare of the community.
4. All residential child care and/or educational institutions and/or facilities shall comply with the Rules for the Licensure of Residential Child Care Facilities as adopted by the Department of Mental Health, Mental Retardation and Substance Abuse, Department of Educational, Bureau of Mental Health and Bureau of Instruction.
5. Any industrial use which is found by the Board to constitute a public nuisance by reason of the emission of dust, fumes, gas, smoke, odor, noise, vibration or other disturbance that is injurious and dangerous to the health, comfort or property of individuals or of the public shall be expressly prohibited. No such finding shall be made by the Board until after a public hearing has been held.
6. Any outdoor storage of articles, supplies, and materials shall not be within the required setback and shall be screened from view of abutting residential property owner or streets by a solid wall or evergreen hedge.
7. Dimensional Requirements
 - a. Lots or the area leased for newly established residential institutional, and commercial structures and/or industrial/manufacturing shall meet the following standards. Any outdoor storage of articles, supplies, and materials shall not be within the required setback and shall be screened from view of abutting residential property by a solid wall or evergreen hedge.

1)	Minimum street/road frontage	200 feet
2)	Minimum front setback from ROW (right-of-way)	50 feet
3)	Minimum side and rear setback	50 feet
4)	Minimum shoreland setbacks shall comply with the Town of Otisfield Shoreland Zoning Ordinance	
9. Sand and Gravel Pits
 - a. Any gravel pit which requires a permit from the Maine Department of Environmental Protection under the Site Location of Development Act shall obtain written approval from the Department of Environmental Protection in addition to approval by the Board under the Site Plan Review procedures of this Ordinance. Site Plan Review approval by the Board shall be conditioned upon State approval.
 - b. In addition to the submission requirement contained in Section 4.B., the following will be submitted.

1. The existing and proposed limits of excavation including phases for excavation and reclamation.
 2. Location, function, and ground area of all structures, facilities, parking lots, roads, and mud run-off areas.
 3. Entrance and exit layout, including access control.
 4. Pre- and post-development topography using an interval of no greater than 5 foot contours.
 5. Surface drainage and watersheds on parcel, pre- and post-excavation.
 6. Location of topsoil stockpile areas.
 7. Areas where natural vegetation will be left and plans to screen the operation from view from public ways and adjacent residential property. Also, slopes and vegetation for protecting adjacent structures shall be submitted.
 8. Location of any test pits or borings and observation wells documenting the seasonal high water table.
 9. At least one cross section along the long axis of the pit and another cross section at a right angle to it. The cross section diagrams should show the existing grade, the proposed final grade including maximum depth of elevation, depth to ground water and the stratigraphy of the surficial deposits at the site.
 10. Proposed disposal method of stumps and grubblings.
 11. Plans and schedule for erosion control and reclamation.
 12. A spill prevention, control and clean-up plan for refueling or storage and handling of petroleum or other substance which could contaminate ground water is to occur on the parcel.
- c. Review Criteria and Standards
1. A buffer strip of not less than 100 feet shall be maintained between the location of any extraction of materials and all property lines. This buffer strip may be reduced to 25 feet with written consent from abutting property owners and Board approval.
 2. The average slope of the cut bank shall not exceed a horizontal to vertical ratio of 2:1. The owner of the borrow pit is responsible for maintaining this condition.
 3. Handling and storage of petroleum products and other substances which have the potential to contaminate ground water may be allowed if such substances are placed under cover and on impermeable, spill-proof base. Such potentially deleterious substances include, but are not limited to salt, rubbish, creosoted timber and petroleum products. Refueling may be accomplished provided the spill prevention, control and clean-up plan is adequate to prevent ground water contamination.
 4. No oiling of access and haul roads is permitted.
 5. No gravel shall be excavated below a position that is 2 feet above the seasonally high water table without approval of the Maine Department of Environmental Protection and

the Board. No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more gravel extraction than could occur under natural conditions.

6. Vehicle access to the pit shall be strictly controlled.
7. Reclamation of the pit shall not be made with any substance that could either have an adverse impact on ground water or create an impermeable base.
8. Stumps and grubblings shall be disposed of in a manner approved by the Board.
9. Suitable traffic control measures shall be made available by the operator at all access points to public streets. Truck routes shall be restricted to collector and arterial roads unless otherwise specified by the Board.
10. Areas or phases of the excavation which are to remain unused for a period of 18 months shall be reclaimed in accordance with the reclamation plan. Further, upon cessation of the extraction of materials or upon the expiration of the Board approval, the site shall be reclaimed in accordance with the reclamation plan.

11. Sand and Gravel Aquifer Protection

- a. In addition to the General Review Standards, the following standards shall be utilized by the Board for reviewing development applications located on a mapped sand and gravel aquifer.
- b. The boundaries of sand and gravel aquifers shall be as delineated on the Sand and Gravel Map prepared by the Maine Geological Survey labeled Map 16 and identified as Open-File Report No. 85-82a.
- c. When the boundaries of the sand and gravel aquifer are disputed due to lack of sufficient detail on available maps, the landowner or agent may submit hydrogeologic evidence to support the claim. The evidence shall be prepared by a geologist, certified in the State of Maine.
- d. Hydrogeologic Study. Based on the size, location, surrounding uses or other characteristics of the proposed use or site to determine compliance with the requirements of this section and the water quality criteria of the Site Plan Review, the Board may require submittal by the applicant of a hydrogeologic impact study. The impact study shall be prepared by a State of Maine Certified Geologist with experience in hydrogeology. The study shall contain the following components unless waived by a specific vote of the Board.

1. A map showing: (1) soil types; (2) surficial geology on the property; (3) the recommended sites for individual subsurface waste water disposal systems and wells in the development; and (4) direction of ground water flow. (The Board expects the detail of this study to vary with the intensity of the development.)

2. The relationship of surface drainage conditions to ground water conditions.

3. Documentation of existing ground water quality for the site.

4. A nitrate nitrogen analysis or other contaminant analysis as applicable including calculation of levels of the property line(s) and well(s) on the property.

5. A statement indicating the potential sources of contamination to ground water from the proposed use and recommendations on the best technologies to reduce the risks.

6. For water intensive uses, analysis of the effects of aquifer drawdown on the quantity and quality of water available for other water supplies or potential water supplies.

7. The Board may require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants or excessive drawdown. The number, location and depth of monitoring wells shall be determined as part of the Hydrogeologic Study, and wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Code Enforcement Officer with evidence showing that contaminant concentrations meet the performance standard for pollution levels.

8. A list of assumptions made to produce the required information.

e. Review Criteria and Standards. In addition the following standards shall be met:

1. No use shall dispose of other than normal domestic waste water on-site without approval of the Board. Disposal of waste water shall be in strict compliance with the Maine Subsurface Wastewater Disposal Rules and other relevant State and local laws, rules and ordinances.

2. Indoor use or storage facilities where hazardous materials, wastes or other liquids with the potential to threatened ground water quality are used or stored shall have concrete floors with dikes adequate to contain the largest quantity of liquid in use at any one time within the area.

3. Petroleum and Other Hazardous Material or Waste Transfer. A spill prevention, control and clean-up plan shall be submitted and approved by the Board.

12. Waste Storage, Disposal or Land Application of Residuals

a. In addition to the General Review Standards, the following shall be utilized by the Board for reviewing development applications for uses designed specifically for waste storage and/or disposal or land application of residuals.

b. The boundaries of sand and gravel aquifers as delineated on the Sand and Gravel Aquifer Map prepared by the Maine Geological Survey labeled Map 16 and identified as Open-File Report No. 85-82a, if within 1,000 feet from the area to receive waste or residuals.

c. An Engineering Report, prepared by a Professional Engineer registered in the State of Maine, detailing the type and characteristics of the wastes to be stored, handled, or disposed; the method(s) of storage, handling or disposal; the potential threats to surface and ground water; and the features and systems needed to protect the surface and ground water quality in the area.

d. Hydrogeologic Study. An impact study shall be prepared by a State of Maine Certified Geologist with experience in hydrogeology. The study shall contain the following components unless waived by a specific vote of the Board.

1. A map(s) showing: (1) soil types, (2) surficial geology on the property, (3) ground water topography, (4) direction of ground water flow, and (5) bedrock contours if within 5 feet of the surface.

2. The relationship of surface drainage conditions to ground water conditions.

3. Documentation of existing ground water quality for the site.
 4. A statement indicating the potential sources of contamination to ground water from the proposed use and recommendations for the best technologies to reduce the risks.
 5. A list of assumptions made to produce the required information.
 6. A recommended ground water sampling program including depth and location of wells and sampling parameters.
- e. The Board may require installation and regular sampling of water quality monitoring wells for any use or proposed use deemed to be a significant actual or potential source of pollutants. Wells shall be installed and sampled in accordance with "Guidelines for Monitoring Well Installation and Sampling" (Tolman, Maine Geologic Survey, 1983). Water quality sample results from monitoring wells shall be submitted to the Code Enforcement Officer with evidence showing that contaminant concentrations meet the performance standard for pollution levels.
 - f. A list of applicable local, state and federal laws, regulations, codes and ordinances which apply to the site.
 - g. An Operating Manual detailing site operations, sampling methods, safety procedures and record keeping. The manual shall contain an emergency management plan covering fire, spills and other potential accidents.
 - h. A copy of any federal or state permits and/or applications for same.

Section 6. GENERAL PROVISIONS

- A. **Waivers:** Where the Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any submission requirement or standard of this Ordinance provided that such waiver will not have the effect of nullifying the purpose of this Ordinance, the Otisfield Comprehensive Plan, or any other ordinance or law. In granting any waiver, the Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.
- B. **Performance Guarantee:** The Board may require the filing of a Performance Bond or the execution of a conditional agreement with the municipality by the applicant.
- C. **Expiration of Approvals:** All Site Plan Review approvals shall expire two (2) years after the date of issuance unless a substantial start of work thereunder is commenced. If work is not completed within three (3) years from the date of approval, the approval lapses and a new application must be made and approved subject to all Ordinances and standards then in effect. Appropriate fees will be determined by the Planning Board and charged for new Town and Planning Board review.
- D. **Minor Changes to Approved Plans:** Minor changes in approved plans necessary to address field conditions or structure orientation may be authorized by the Code Enforcement Officer provided that any such change does not affect the standards of this Ordinance or alter the intent of the approval. A request for a minor change to an approved plan shall be in writing to the Code Enforcement Officer.

In making the determination to approve a minor change to an approved plan the Code Enforcement Officer shall consult with the Planning Board Chair or the Chair's designee. All approvals for minor

changes to approved plans shall be in writing by the Code Enforcement Officer. A copy of the written approval and revised site plan shall be filed with the Planning Board within thirty (30) days from the date of the written approval.

Approvals of site plans are dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed by the applicant. Any variation from the plans, proposals and supporting documents, except minor changes as permitted above, is subject to review and approval by the Planning Board.

Section 7. ENFORCEMENT

- A. **Nuisances:** Any violation of this Ordinance shall be deemed to be a nuisance.
- B. **Code Enforcement Officer:** It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify by registered mail the person or persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- C. **Legal Actions:** When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen, upon notice from the Code Enforcement Officer, are hereby required to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The Selectmen, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. In considering the terms of any administrative consent agreement the Selectmen shall consult with the Board. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- D. Any person or corporation who shall violate any of the provisions of this Ordinance or fail to comply with any of the requirements thereof shall, upon conviction, be punished by a fine of not less than \$100 not more than \$2500, and each day on which such violations shall continue shall constitute a separate offense.

Section 8. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES

- A. **Validity and Separability:** Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- B. **Conflict with other Ordinances:** Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

Section 9. APPEALS

- A. **Administrative Appeals**
If the Board approves or disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of this Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or aggrieved party may appeal the decision of

the Board in writing to the Board of Appeals within 30 days of the Board's decision. The Board of Appeals may reverse the Board's decision after holding a public hearing and may reverse the decision of the Board.

B. Dimensional Appeals

The Board of Appeals may grant a variance from the dimensional requirement contained in Section 5.B.8 after holding a public hearing. The Board of Appeals shall not grant a dimensional variance unless it finds that the strict application of those requirements would result in undue hardship. The term "undue hardship" shall mean:

1. That the land in question cannot yield a reasonable return unless a variance is granted;
 2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 3. That the granting of a variance will not alter the essential character of the locality; and
 4. That the hardship is not the result of action taken by the applicant or a prior owner.
- C. The Board of Appeals shall limit any dimensional variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a dimensional variance as it deems necessary. The party receiving the dimensional variance shall comply with any conditions imposed.

D. Appeal Procedure

1. Making an Appeal

- a. An administrative or dimensional appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Planning Board. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may extend the appeal 15 days.
- b. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - 1) A concise written statement indicating what relief is requested and why it should be granted.
 - 2) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- c. Upon being notified of an appeal, the Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- d. The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

2. Decision by Board of Appeals

- a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of

the Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The Board of Appeals may reverse the decision, or failure to act, of the Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance.

- c. The person filing the appeal shall have the burden of proof.
- d. The Board of Appeals shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- e. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefor, and the appropriate order, relief or denial thereof.

E. Appeal to Superior Court

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

F. Reconsideration

The Board of Appeals may make a one time reconsideration of any decision within thirty (30) days of its prior decision. The Board of Appeals may conduct additional hearings and receive additional evidence and testimony.

Section 10. AMENDMENTS

This Ordinance may be amended by a majority vote at the Annual Town Meeting. Amendments may be initiated by majority vote of the Board or by request of the Board of Selectmen to the Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment.

The effective date of the Site Plan Review Ordinance is March 6, 1993 with amendments made on June 21, 2008 and June 27, 2009

TANYA TAFT
06.27.09