

.....**Article 1: General Provisions**

SECTION 1. TITLE

This Ordinance is known and cited as the Town of Belgrade Commercial Development Review Ordinance and will be referred to as “this Ordinance.”

SECTION 2. AUTHORITY

This Ordinance is adopted pursuant to the provisions of Title 30-A MRSA Section 3001.

SECTION 3. EFFECTIVE DATE

This Ordinance takes effect upon enactment by the Town Meeting. The effective date is:

SECTION 4. RELATIONSHIP WITH OTHER ORDINANCES

Whenever a provision of this ordinance conflicts with, or is inconsistent with, another provision of this ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control. All site review applications are required to conform to all other applicable ordinances and regulations of the Town of Belgrade, such as but not limited to, Shoreland Zoning, Minimum Lot Size, Subdivisions and Floodplain Management.

SECTION 5. VALIDITY AND SEVERABILITY

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

SECTION 6. AMENDMENTS

Any amendment to this Ordinance shall be adopted by a majority vote of a Town Meeting.

SECTION 7. AVAILABILITY

A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request.

Article 2: Purpose

SECTION 1. PURPOSE

The purpose of this Ordinance is to accomplish objectives outlined in the Town of Belgrade Comprehensive Plan, dated July 1998. In particular the following:

- A *To establish a procedure whereby the Planning Board may review new proposals to use or develop land and buildings for commercial, industrial, office, community and service uses, municipal, institutional, utility, and recreational uses.
- B To establish a fair and reasonable set of standards for evaluating each development.
- C To mitigate potential nuisances associated with development from having a negative impact upon the community.
- D To address a wide range of environmental and planning issues associated with development including: noise, odors, stormwater, erosion, phosphorus, waterbody protection, traffic, parking, light and glare, scenic resources, groundwater, historic and archeological resources, significant wildlife and aquatic resources, and other natural resources.
- E To reduce off-site impacts from development from negatively affecting municipal services and infrastructure.
- F To protect the water quality of all the lakes, ponds, streams, brooks, and wetlands within the community.

Article 3: Applicability

SECTION 1. APPLICABILITY

*Review is required for new construction or development of commercial uses or the proposed expansion of existing commercial operations as provided below:

- A The construction or placement of any new building or structure for a nonresidential use, including accessory buildings and structures, in excess of 1,200 square feet..
- B The expansion of an existing nonresidential building or structure, including accessory buildings and structures, that exceed 25 percent of the existing structure footprint or if greater than 1,200 square feet in footprint area.
- C The conversion of an existing building, in whole or in part, from a residential use to a commercial use, where the area converted exceeds the square footage threshold established above.
- D The establishment of a new nonresidential use even if no buildings or structures are proposed including such uses as gravel pits, mining operations, cemeteries, golf courses, telecommunication towers and other nonresidential uses.
- E The conversion of an existing nonresidential use, in whole or in part, to another nonresidential use.
- F *The construction or expansion of paved areas or other impervious surfaces, including walkways, access drives, roads, and parking lots involving more than 5,000 square feet of area. This shall not apply to paving or repavement of existing paved or impervious surfaces less than 10,000 square feet.
- G New or existing mineral extraction operations. These operations which result in the excavation, movement or processing of more than 200 cubic yards of material within any 2 year period or which result in non-vegetated areas in excess of 20,000 square feet. Permits for mineral extraction shall be for a period of up to 5 years and shall be renewable.
- H Facilities for the storage of bulk fuel, chemicals or other flammable or hazardous substances that exceed 1,000 gallons.

SECTION 2. USES NOT REQUIRING REVIEW

The following uses and activities do not require review.

- A The construction, alteration, enlargement or placement of a single family or two family dwelling, including accessory buildings or structures.
- B Home occupations as defined by this Ordinance.

- C Agricultural production, timber harvesting, and forest management activities.
- D Subdivisions reviewed under the Town's Subdivision Ordinance and also any roads or driveways covered by that ordinance.

Article 4: Administration and Enforcement

SECTION 1. PLANNING BOARD

The Planning Board shall have the following powers and duties:

- A To administer this Ordinance.
- B To hear and decide upon applications according to this Ordinance.
- C To develop site review application forms.
- D To provide the Code Enforcement Officer with a written decision of each application.

SECTION 2 CODE ENFORCEMENT OFFICER

The Code Enforcement Officer shall have the following powers and duties:

- A To enforce the provisions of this Ordinance.
- B To issue stop work orders and other appropriate notices of violation.
- C To assist the Planning Board with the review process.
- D To conduct site visits and to review applications as authorized by this Ordinance.
- E To issue permits.

SECTION 3 COMMERCIAL DEVELOPMENT REVIEW PERMITS

The Planning Board shall review and decide upon all applications and shall submit their written decision on each application to the Code Enforcement Officer. The Planning Board shall prepare the permit approval, including any conditions and submit it to the Code Enforcement Officer, who shall issue the permit to the applicant.

No work or other development shall be undertaken on any use or project that requires review until a permit has been issued by the Code Enforcement Officer.

SECTION 4 PERMIT FEE

A non-refundable review fee shall be submitted with the application. The fee shall be established by the Board of Selectpersons.

SECTION 5 PERMIT EXPIRATION

Permits are valid for 12 months from the date of Planning Board approval for the substantial start of construction. Permits that have expired shall become null and void and the applicant shall obtain another permit as required by this Ordinance by submitting another site review application to the Planning Board. A permit is transferable to subsequent owners of the property.

SECTION 6 DECISIONS

After a review of a complete application the Planning Board shall determine whether the proposal meets the review criteria contained in Article 5 of this Ordinance. The Planning Board shall make a written

finding of fact to support its decision and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit its decision to the applicant and the Code Enforcement Officer.

SECTION 7 BURDEN OF PROOF

The applicant shall have the burden of proof to show that the proposal meets the applicable review criteria and the standards contained in this Ordinance.

SECTION 8 RIGHTS NOT VESTED

The submittal of the application to the Code Enforcement Officer to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of Title 1, MRSA, Section 302. The formal review process shall begin upon notification to the applicant that a complete application has been received.

SECTION 9 SITE INSPECTION

The Code Enforcement Officer and/or the Planning Board may perform an on-site inspection of the proposed project to obtain knowledge about the site and the surrounding area.

SECTION 10 ADDITIONAL INFORMATION AND STUDIES

The Planning Board may at its discretion retain independent expert assistance to supplement the evidence presented by the applicant and received during the public hearing. The cost of such expertise shall be borne by the applicant according to the terms of an escrow account set-up at the time the application is submitted as listed in the Permit Fee Schedule established by the Board of Selectpersons.

SECTION 11 WAIVERS

- A The Planning Board may vote to waive any of the development standards or submission requirements in this Ordinance when it finds one of the following:
- 1 One or more of the submission requirements, or development standards are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, type of project, or unique features of the proposed use.
 - 2 The applicant may submit alternative designs which meet or exceed performance standards required under this ordinance. Such submissions shall not be waived but may replace standard submissions.
- B The applicant shall submit information to support the waiver request with the application.
- C The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the waiver request and if it meets the appropriate criteria shall approve the request and submit its decision in writing to the applicant. If the Planning Board finds that the waiver request does not meet the criteria, it shall deny the waiver and require the applicant to revise the application as necessary. The Planning Board may vote to suspend review of the

application until the applicant supply all the necessary information. The applicant shall submit all required information to the Planning Board within 60 calendar days of the denial of the waiver request. Failure to submit the information within this time will require that a new application be submitted for review. In no case shall the Planning Board make a final decision on the application until the applicant supplies additional information to the satisfaction of the Board.

D All waivers approved by the Planning Board shall be documented during the review process.

SECTION 12 CONDITIONS

Upon consideration of the review criteria, the Planning Board may attach such conditions to the proposed application that it finds necessary to further the purposes of this ordinance. Conditions are limited further to address items already contained in this Ordinance. A condition may not be imposed to regulate any item not specifically addressed in this Ordinance.

In determining whether conditions are appropriate or necessary, the Planning Board shall consider the unique features of the following: site and surrounding area; proposed use and proposed structure. A written finding of fact shall be created stating that unique features are found to exist and suitable conditions can be imposed that will allow the proposal to meet the purposes of this Ordinance.

The conditions shall be listed in the permit and shall be made enforceable under this Ordinance.

SECTION 13 PUBLIC HEARING REQUIREMENTS

The Planning Board may hold a public hearing on each site review application as follows:

A The public hearing shall be held within 35 days after the proposed application is deemed complete. This period may be extended for up to 60 days by mutual consent by the applicant and the Planning Board.

B The notice of the date, time and place of the public hearing shall be made as follows:

1 Published at least once in a newspaper having general circulation within the Town. The date of the first publication shall be at least 7 days before the hearing.

2 Mailed by first class mail to the applicant.

3 Mailed by first class mail to all property abutters as determined from the current tax assessment roles, at least 7 days before the public hearing. The Planning Board shall maintain a list of all property abutters mailed a notice in the application file. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

C The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

SECTION 14 APPEALS

A The Board of Appeals is authorized to hear administrative appeals and variance appeals arising from this

Ordinance.

- 1 Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration of this Ordinance.
- 2 Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

B Variances may be permitted only under the following conditions:

- 1 Variances may be granted only from dimensional requirements including but not limited to, lot width, structure height, lot coverage and setback requirements.
- 2 Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- 3 *The Board of Appeals shall not grant a variance unless it finds that the strict application of this Ordinance would result in undue hardship.
- 4 The Board of Appeals shall limit any 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 variances it deems necessary. The party receiving the variance shall comply with any conditions imposed.

C Appeal Procedure

- 1 An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such appeal shall be taken within 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 waive the 30 day requirement.
- 2 Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a A concise written statement indicating what relief is requested and why it should be granted.
 - b 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.
- 3 Upon being notified of an appeal, The Code Enforcement Officer or the Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- *4 The Board of Appeals shall hold a public hearing on the appeal within 45 days of its receipt of an appeal request.

D Decision by the Board of Appeals

- 1 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.
- 2 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 Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter, 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 Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act was clearly contrary to specific provisions of this Ordinance.
- 3 The person filing the appeal shall have the burden of proof.
- 4 The Board of Appeals shall decide all appeals within 35 days after the close of the public hearing, and shall issue a written decision on all appeals.
- 5 All decisions shall become 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.
- 6 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 45 days from the date of any decision of the Board of Appeals.
- 7 The Board of Appeals may reconsider any decision within 30 days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

SECTION 15 ENFORCEMENT AND PENALTIES

- A The Code Enforcement Officer shall keep a record of all enforcement actions and shall institute or cause to be instituted in the name of the Town any actions that might be appropriate for the enforcement of this Ordinance., including the use of administrative consent agreements.
- B Any person, including but not limited to a landowner, landowner's agent, or contractor, who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A , MRSA, Section 4452.

Article 5: Review Criteria

SECTION 1. REVIEW CRITERIA

An applicant for a commercial development permit shall demonstrate that the proposed use or project meets the review criteria listed below. The Planning Board shall not approve an application unless it makes written findings that all of these criteria have been met.

- i The application is complete and applicable review fee has been paid.
- ii The proposal conforms to all the applicable provisions of this Ordinance.
- iii The proposed activity will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that an unsound or unhealthy condition results.
- iv The proposed activity will not have an adverse impact on freshwater wetlands.
- v The proposed activity will not have an adverse impact upon any waterbody such as a lake, pond or stream.
- vi The proposed activity will provide for adequate storm water management.
- vii The proposed activity will provide for adequate sewage disposal.
- viii The proposed activity will not adversely impact any floodplain areas and will conform to the applicable requirements of the Town of Belgrade Floodplain Management Ordinance.
- ix The Proposed activity will not result in air or water pollution.
- x The proposed activity has sufficient water available for the current and foreseeable needs of the development.
- xi The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
- xii The proposed activity will dispose of all solid waste in conformance with all local regulations and that the type and quantity of waste proposed to be sent to Town facilities will not exceed their capacity.
- xiii The proposed activity will not have a significant detrimental effect on adjacent land uses or other properties, that might be affected by waste, noise, glare, fumes, smoke, dust, odors or their effects.
- xiv The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or roads existing or proposed.
- xv The proposed activity to the maximum extent possible will not have an adverse affect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Belgrade, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- xvi The proposed activity shall conform to all the applicable requirements of the Town's Shoreland Zoning Ordinance, Minimum Lot Size Ordinance and all other local Ordinances.

- xvii The proposed activity will not unreasonably increase a great pond's phosphorus concentration if the development is within the watershed of a great pond.
- xviii The Town has the capacity to provide fire and rescue services.

Article 6: Application Procedure

SECTION 1. APPLICATION PROCEDURE

- A *The applicant shall submit the site review application to the Code Enforcement Officer along with the appropriate application fee and written evidence that abutters have been notified.
- B The Town of Belgrade shall issue a dated receipt to the applicant upon receiving the application.
- C Within 35 days of receipt of the application, the Code Enforcement Officer shall make a determination whether the application is complete and notify the applicant of his/her determination.
 - 1 If the application is not complete the Code Enforcement Officer shall notify the applicant of the specific materials needed to complete the application. The applicant shall provide the required materials according to above listed procedure.
 - 2 If the application is complete the Code Enforcement Officer shall notify the Planning Board that a complete site review application has been received and place the application on the Planning Board's agenda for review and consideration.
- D The applicant shall, at least 14 days prior to the scheduled meeting, submit to the Code Enforcement Officer 3 copies of the site review application. The Code Enforcement Officer shall distribute to the Planning Board copies of the application prior to the meeting. The applicant may provide reduced copies of maps and plans, however, at least one full size set of plans shall be submitted.
- E Substantive review of the application shall not be deemed to have begun until the Code Enforcement Officer makes a finding that the application is complete.
- F The Planning Board shall make a final decision upon the application within 90 days of the initial meeting. However, upon mutual consent of the applicant and the Planning Board the final decision may be extended.
- G The Planning Board shall submit their final decision in writing to the applicant and to the Code Enforcement Officer within 7 working days.. Any conditions imposed upon the application shall be listed in their final decision.

SECTION 2. SUBMISSION REQUIREMENTS

All site review applications shall be submitted on the forms developed by the Planning Board and shall include the following materials and information.

- A Site Review Application
- B Site Review Application fee.
- C Waiver Request Form if Applicable.
- D General information including the following:
 - 1 Name, address and telephone number of the applicant and applicant's agent if applicable.
 - 2 Property location, including address, map and lot number.

- 3 Verification of the applicant's right, title or interest in the property.
- 4 Estimated cost of the proposal.
- 5 Schedule of construction including anticipated beginning and completion dates.
- 6 A description of the project.
- E General location information including the following:
 - 1 A copy of the tax map showing the property and surrounding parcels.
 - 2 A copy of the Kennebec County soil map showing the property.
 - 3 A copy of the USGS Topographic map showing the property
 - 4 A copy of the Town Shoreland Zoning Map showing the property if located in a Shoreland District.
 - 5 A copy of the FIRM Map showing the property if located in a designated floodplain.
 - 6 A copy of the National Wetlands Inventory Map showing the property.
 - 7 A map drawn to scale showing the location, boundaries, elevations, uses and size of the following: developed site, type of structures, setbacks, parking areas, driveways and roads, drainage ways, easements and rights-of-way, watercourses, waterbodies and wetlands number of acres within the development, size of all impervious areas, all other significant natural and physical features and true north.
- F The location of all proposed subsurface waste water disposal systems.
- G Indication of the water source for the proposal including evidence that an adequate water supply is available to supply all the water needs of the proposal including fire suppression. (please note: the fire chief should be consulted to determine whether of not appropriate structures are required to supply a water source to handle a fire threat)
- H Evidence that all other local permits have been obtained including but not limited to: Shoreland Zoning, and Floodplain Management.
- I An erosion control plan as per the requirements of this Ordinance.
- J A storm water control plan as per the requirements of this Ordinance.
- K A phosphorus control plan as per the requirements of this Ordinance.
- L The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Commission.
- M The location of any significant wildlife resources or natural areas.
- N The Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
- O Any proposed areas or structures to be dedicated for public use.
- P Scaled drawings showing the location and construction specifications for all proposed roads including drainage features such as ditches and culverts, access points, driveways parking areas and other traffic management and control features.
- Q Any other material to show that the applicable performance standards or other requirements of this Ordinance are followed.
- R The estimated quantities of flammable or hazardous materials to be stored or handled on site.

