

# **SITE PLAN REVIEW ORDINANCE**

## **TOWN OF NAPLES**

Adopted: November 29, 1988

Amended: May 14, 1991

Amended: March 5, 1994

Amended: June 28, 1997

Amended: June 27, 1998

Amended: June 11, 2002

Amended: June 5, 2013

Attested by Town Clerk

## TABLE OF CONTENTS

<b>SECTION 1.</b>	<b>FINDINGS AND PURPOSE</b>
<b>SECTION 2.</b>	<b>AUTHORITY</b>
<b>SECTION 3.</b>	<b>APPLICABILITY</b>
<b>SECTION 4.</b>	<b>ADMINISTRATION</b>
<b>SECTION 5.</b>	<b>SUBMISSION REQUIREMENTS</b>
<b>SECTION 6.</b>	<b>CRITERIA AND STANDARDS</b>
<b>SECTION 7.</b>	<b>GENERAL PROVISIONS</b>
<b>SECTION 8.</b>	<b>GENERAL REGULATIONS</b>
<b>SECTION 9.</b>	<b>ENFORCEMENT</b>
<b>SECTION 10.</b>	<b>EXPIRATION OF NOTICE OF DECISION</b>
<b>SECTION 11.</b>	<b>VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES</b>
<b>SECTION 12.</b>	<b>APPEALS</b>
<b>SECTION 13.</b>	<b>AMENDMENTS</b>
<b>ADDENDUM</b>	<b>Naples Planning Board 1992 Phosphorus Review Protection Level and Future Area to be Developed (FAD) Level for Lakes and Ponds in Naples.</b>

**SECTION 1.            FINDINGS AND PURPOSE**

The Town of Naples determines that large scale development or major land use changes have a profound effect upon the cost and efficiency of municipal services, upon the environment of the Town of Naples, and upon the general health, safety and welfare of the residents of the Town. Unplanned development may result in overcrowded schools and highways, increased costs of municipal services and degraded air and water quality. The purpose of this ordinance is to ensure an orderly growth of the Town and to minimize the detrimental effects of that growth which is caused by development, by way of but not limited to: commercial, industrial, retail or institutional buildings, structures and/or uses, campgrounds and mobile home parks.

**SECTION 2.            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, M.R.S.A., Section 2151-A.
2. This Ordinance shall be known as the "Site Plan Review Ordinance" of the Town of Naples, Maine, adopted and effective by vote of the Naples Town Meeting, March 5, 1994, and thereafter amended.

**SECTION 3.            APPLICABILITY**

- A. This Ordinance shall apply to all development proposals and changes of use defined herein in the Town of Naples. Development means and includes:
  1. Proposals for new construction of commercial, retail, industrial, utility, institutional and recreational buildings and structures of more than 1600 square feet of floor space or additions of more than 800 square feet of floor space either be addition of units within an existing structure or by expansion of an existing structure or by construction of additional buildings on the same lot. Such requirements of construction shall be cumulative. Review shall be required if the new construction, alteration or addition results in a building or buildings that exceeds 1600 square feet of floor space or a total expansion (whether the addition of units within an existing structure or added floor space or added floor space in additional buildings on the same lot) of 800 square feet after June 28, 1997.

Proposals for new construction of buildings and structures for campgrounds, rental cottages or cabins, motels or hotels, and multi family dwellings that exceed 2,500 square feet of floor space or additions in excess of 1,600 square feet of floor space either by addition of units within an existing structure or by expansion of an existing structure or by added floor space in additional buildings on the same lot. Such requirements of construction and addition shall be cumulative.

2. Proposals to convert residential uses to nonresidential uses other than those defined as home occupations, or to convert single family dwelling to multi-family dwellings.
  3. Proposals to pave, remove earth materials or grade areas of more than 15,000 square feet of non-vegetated area within a five year period.
- B. Change of use. A change in the use of land or structures that meets either of the following criteria shall require at least limited site plan review:
1. A proposed change in use that is located on a site or in a building that originally received site plan review; or
  2. A proposed change in use that is located on a site or in a building that meets the review thresholds in section 3.A.1 to 3.A.3, inclusive and is a use that would require site plan review if it were proposed as a new development.

Upon the request of the applicant, the Planning Board may waive any of the site plan review administration or submission requirements if the Planning Board determines that there will be no adverse effects on the neighborhood or the site and that the purposes of site plan review continue to be met. Any waiver shall be in writing and shall state the basis and reasons for granting the waiver.

A change in use requiring site plan review occurs when a project that is covered under Section 3.B.1, 3.B.2 or 3.B.3 above changes to a use that was not considered in the original site plan approval or, if there was no prior approval, changes to a use different from what was originally constructed or has historically been implemented. Examples include a change from an office to a retail store or from a retail store to an industrial use or from a retail store to a restaurant. A proposal to change one retail use to a different kind of retail use, such as a change from a drug store to a candy store or a convenience store would not be considered a change in use. A proposal to increase the number of residential units in a structure would be considered a change in use.

C. This ordinance does not apply to:

1. Construction of one detached single-family or one duplex dwelling on a lot and customary out buildings for the use of the residents thereof.
2. Construction of barns, stables and other agriculturally related buildings other than buildings for the purpose of processing agricultural related products.
3. Land management practices for agricultural or forestry purposes.

4. Legally existing buildings, structures and uses as they existed and to the extent they were used at the time of adoption of this Ordinance.
5. Home occupations, including yard sales.
6. Fairs, bazaars, sales and festivals, temporary in nature, conducted by nonprofit organizations.
7. All new and existing municipal facilities of the Town of Naples are exempt from Planning Board Review, but must meet all of the conditions as specified in the Ordinance and all other town ordinances.

No building permit shall be issued for any development requiring Site Plan Review until the plans, drawings, sketches and other documents required under this Ordinance have been reviewed and approved by the Planning Board.

Construction, site development and landscaping shall be carried out in accordance with the plans, drawings, sketches and other documents approved by the Planning Board unless altered with Planning Board approval. Nothing in this Section shall be construed to prevent ordinary maintenance and improvement of existing structures and facilities.

#### **SECTION 4.           ADMINISTRATION**

The following procedures and requirements shall apply to all applications for Site Plan Review:

1. Prior to formal application, the applicant or his authorized agent may request a pre-application conference with the Planning Board or its designated staff to discuss the plan and its compliance with town standards. Comments made at such a meeting shall be advisory in nature. The Planning Board may request that the applicant arrange for a site inspection with the Board or one or more individuals appointed by the Board's Chairperson to act as the Board's representative.
2. All applications for Site Plan Review shall be made in writing to the Planning Board secretary on forms provided for this purpose. The application shall be made by the owner of the property or his agent, as designated in writing by the owner, and shall be accompanied by the payment of an application fee to cover the administrative costs of processing the application.
3. The Planning Board shall be empowered to administer applications fees as set by the Selectmen and listed in the Town of Naples Fee Schedule.
4. The Planning Board may require the applicant or his authorized agent to deposit in escrow funds sufficient to cover the costs for any professional review of the site plan documents which the Planning Board determines is reasonable

to protect the Town as authorized by the Town of Naples Land Use Fee Schedule. This escrow payment shall be made before the Planning Board engages any outside party to undertake this review and to make recommendations to the Planning Board. Any part of this escrow payment in excess of the final costs for the review shall be returned to the applicant or his agent.

5. At least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard, the applicant shall submit a letter of intent to appear before the Planning Board.
6. Eight (8) copies of the completed application for Site Plan Review, together with the documentation required in these regulations shall be submitted at least fourteen (14) days prior to the Planning Board meeting at which the applicant wishes to be heard. However, any application which does not include the documentation required by these regulations will not be scheduled for review by the Planning Board and shall be re turned to the applicant by the Planning Board secretary with an indication of the additional information required.
7. Preliminary review of the application for completeness shall be done by the Code Enforcement Officer. The Planning Board shall be the ultimate authority on the completeness of an application and shall make a finding of fact during its initial review as to whether the application is complete. If the Board finds the application is incomplete, the Planning Board shall inform the applicant of what information is necessary to complete the application.
8. Prior to taking final action on any Site Plan Review application, the Planning Board may hold a public hearing to afford the public the opportunity to comment on the application. Notice of the date, time and place of such hearing shall be published in a newspaper of local circulation at least ten (10) calendar days prior to the public hearing meeting the requirements of 1 M.R.S.A., Section 60.
9. Within forty-five (45) days after the public hearing or sixty (60) days after receiving a complete application, the Planning Board shall either approve, approve with conditions, or disapprove the application. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant.
10. When a development is subject both to Site Plan Review and to Subdivision Review, the Planning Board shall conduct a concurrent review. Procedures of the Subdivision Ordinance shall be used. Criteria and standards of the Site Plan Review Ordinance shall be employed in addition to the requirements improvements and standards of the Subdivision Ordinance.

## **SECTION 5.            SUBMISSION REQUIREMENTS**

A formal application for Site Plan Review shall contain at least the following exhibits and information:

- A.     A fully executed and signed copy of the application for Site Plan Review; and, eight (8) copies of a site plan drawn at a scale sufficient to allow review of the items listed under Criteria and Standards, but not more than one hundred (100) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
1.     Owner's name, address and signature.
  2.     Name and addresses of all abutting property owners plus a description of the project, to be used by the Planning Board to notify the abutters by certified mail of the proposed project, proof of mailing receipts to be kept on file at the Town Office. Owners of abutting properties shall be those listed in the most recent tax records of the Town of Naples.
  3.     Perimeter survey of the parcel made and certified by a registered land surveyor relating to reference points showing true north point, graphic scale, corner of parcel, date of survey and total acreage.
  4.     Total area of any land within 500 feet of the proposed project which is owner by the applicant.
  5.     Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in tow or more zoning districts.
  6.     Soil types and location of soil boundaries as certified by a registered engineer or certified soil scientist.
  7.     The location of all building setbacks as required by the Town Ordinances.
  8.     The location, size and character of all signs and exterior lighting.
  9.     The lot area of the parcel, street frontage and the Town Ordinances requirements for minimum lot size and frontage.
  10.    The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, large trees, open drainage courses, signs, exterior lighting, service areas, easements and landscaping.

11. The location of all buildings within fifty (50) feet of the parcel to be developed and the location of intersecting roads or driveways within 200 feet of the parcel.
  12. Existing and proposed topography of the site at two (2) foot contour intervals if major changes to the existing topography are being proposed.
  13. All surface water features within 500 feet of the project boundaries, including perennial streams and wetlands.
  14. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of entrances and exits of vehicles to and from the site on to public streets, curb and sidewalk.
  15. Location of all wells and septic systems within 150 feet of the property boundary.
  16. Existing land cover and vegetation conditions.
  17. Drainage plan to describe the location and size of road culverts, road drainage ditches, phosphorus and runoff control measures and other similar features.
  18. If the site is not to be served by a public sewer line, then an on-site soils investigation report by a Department of Human Services licensed site evaluator shall be provided.
  19. A list of waivers of any town requirements or ordinance provisions requested.
  20. A statement from the Fire Chief that the property is accessible by present fire apparatus and detailing any additional on-site fire protection facilities required.
- B. A soil and erosion control plan approved by the Cumberland County Soil & Water Conservation District, showing:
1. The existing and proposed method of handling stormwater 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 calculation used to determine drainage requirements based upon a 25 year storm frequency, if the project will significantly alter the existing patterns due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.

C. Phosphorus Analysis.

1. A phosphorus analysis is required if proposed project is within the Shoreland Zone or the non-vegetated area exceeds 40,000 square feet.
2. The analysis of phosphorus loading shall utilize the methods contained in the latest revised edition of the manual Phosphorus Control in Lake Watersheds, published by the Maine Department of Environmental Protection, and shall require third party review.

D. A utility plan showing provisions for water supply and waste water disposal including the size and location of all piping, holding tanks, leach field, etc.

E. Building plans showing plans of all floors and all elevations.

F. Copies of any proposed or existing easements, covenants and deed restrictions.

G. A description and design of proposed temporary and permanent signs, including location, size and lighting.

H. Copies of all required state approvals and permits, provided however, that the Planning Board may approve site plans subject to the influence of specific state licenses and permits in cases where it is not feasible for the applicant to obtain at the time of Site Plan Review.

The Planning Board may waive any of these requirements when the Board determines that the scale or nature of the project is of a size that makes the information unnecessary.

## **SECTION 6. CRITERIA AND STANDARDS**

The following criteria and standards are to be used by the Planning Board in judging applications for Site Plan Review and shall serve as minimum requirements for approval of a site plan. In all instances, the burden of proof shall be on the applicant to demonstrate compliance with each standard.

- A. **Preservation of Landscape:** The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation when and where desirable, and keep any grade changes in character with the general appearance of neighboring areas. Existing vegetation, buffering, landscaping and building siting are potential methods of preserving scenic vistas.
- B. **Relation of Proposed Building to the 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 building. Special attention shall be paid to the scale of the proposed building(s), massing of the structure(s), and such natural features as slope, orientation, soil type and drainage courses.

Architectural features of the proposed structures shall be considered for all developments fronting on Route 302 from the fire station to the Crooked River Bridge to conform as close as practical to existing structures in the surrounding area.

- C. **Vehicular Access:** The proposed layout of access points shall be designed so as to avoid adverse impact on existing vehicular and pedestrian traffic patterns. The proposed site layout shall give special consideration to the location, number and control of access points, adequacy of adjacent streets, traffic flow, sight distances, turning lanes, pedestrian-vehicle contacts and existing or proposed traffic signalization shall be considered.
- D. **Parking and Circulation:** The layout and design of all means of vehicular and pedestrian circulation, including walkways, interior drives, and parking areas shall provide interior-circulation, separation of pedestrian and vehicular traffic, service traffic, loading areas, and the arrangement and use of parking areas. These facilities shall be safe and convenient and, insofar as practicable, shall not detract from the proposed buildings and neighboring properties. Sufficient off street parking must be provided for both employees and customers of the newly constructed facility. All parking areas must be set back a minimum of 10 feet from the property line on any State numbered route.
- E. **Surface Water Drainage:** Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions or the public storm drainage system and shall be held to a zero percent or less off-site increase after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.
- F. **Utilities:** The site plan shall show what provisions are being proposed for water supply and wastewater disposal. Electric, telephone and other utility lines shall be installed underground unless the Planning Board waives this requirement as on a determination that underground placement is not possible because of site conditions. Any utility installations above ground shall be located so as to have a harmonious relationship with neighboring properties and the site.
- G. **Advertising Features:** The size, location, design, color, texture, lighting and material 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.
- H. **Special features:** A buffer zone shall be required between commercial and residential properties using plantings or other screening methods as shall be reasonably required to prevent the commercial use from being incongruous with the existing or contemplated environment and the surrounding properties. The Planning Board may require buffer zones between commercial properties where differences in the use of the properties or the natural features of the properties make buffers

appropriate. All buffers and screening must be maintained indefinitely by the property owner.

- I. **Exterior Lighting:** All exterior lighting shall be designed to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.
- J. **Emergency Vehicle Access:** Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- K. **Landscaping:** Landscaping shall be designed and installed to define, soften or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention should be paid to the use of planting to break up parking areas. Landscaping shall be provided as part of the overall site plan design and integrated into building arrangements, topography, parking and buffering requirements. Landscaping may include trees, bushes, shrubs, ground cover, plants, grading and the use of building and materials in an imaginative manner. All landscaping and buffer areas required by the Planning Board to be on the site plan must be maintained by the applicant and successor owners and/or occupants.
- L. **Environmental Considerations:** Adequate provision shall be made to control noise, vibrations, smoke, heat, glare, fumes, dust, toxic matter, odors and electromagnetic interference generated by proposed uses or activities on the site such that these impact shall not be readily detectable at any point along lot lines so as to produce a public nuisance or hazard.
- M. **Signs:** Areas outside of the Shoreland Zoning District shall comply with following: One free-standing sign per property is permitted. Free-standing signs shall have a maximum surface area of thirty-two (32) square feet per sign face per property where posted speed limits are less than thirty-six (36) miles per hour and a maximum of sixty-four (64) square feet per sign face per property where posted speed limits exceed thirty five (35) miles per hour. The maximum height for free-standing signs shall be twenty (20) feet. For each business in excess of three (3) located on a single property parcel, an additional nine (9) square feet sign area per business shall be allowed.
- N. **Municipal Services:** The development will not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, emergency medical unit, solid waste program, schools, municipal services and facilities.

- O. **Air Pollution:** Will not result in undue air pollution. In making this determination, the applicant shall, if require by the Planning Board, consult federal and state authorities to determine applicable air quality laws and regulations, and furnish such evidence to the board.
- P. **Noise Levels:** Will not violate any noise control provisions in effect in the Town of Naples or the State.

## SECTION 7. GENERAL PROVISIONS

- A. The Planning Board may modify or waive any of the application requirements or performance standards when the Planning Board determines that because of the special circumstances of the site such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the Town. If any waivers or exceptions are granted they must be listed on the final plan.
- B. The Planning Board may require the filing of a performance bond, a certified check payable to the Town, an irrevocable letter of credit or the execution of a conditional agreement assuring the applicant's performance of the applicant's obligations under its permit. Such measures may be required to properly completion of some or all site improvements including, but not limited to roads, parking areas, sewage systems, water lines, open areas, and sedimentation and erosion control systems.
- C. The Planning Board shall require the applicant or the applicant's authorized agent to deposit in escrow with the Town an amount of money to cover the costs for any professional review of the site plan documents which the Board may feel is reasonably necessary to protect the environmental quality or general welfare of the Town. Maximum amounts for this escrow payment shall be established by the Board of Selectmen. This escrow payment shall be made before the Board engages any outside party to undertake this review and make recommendations to the Board. any part of this escrow payment is excess of the final costs for review shall be returned to the owner or the owner's agent. Amount to be deposited shall be shown on the Fee Schedule in accordance with The Naples Planning Board Land Use Fee Schedule..
- D. Any proposed development shall be in conformity with the Comprehensive Plan of Naples and with the provisions of all local codes or regulations or any State Law which the municipality is responsible for enforcing.

**SECTION 8.           GENERAL REGULATIONS**

- A. The following regulations shall be complies with in addition to the performance standards contained in Section 6, Criteria and Standards, of this Ordinance for residential, institutional, industrial and commercial developments.
  - 1. All uses requiring federal, state and/or local licensing shall obtain such license before a Site Plan Review Permit is granted by the Planning Board.
  - 2. The Planning Board, as a condition of approval, may require assurances to protect the health, safety and general welfare of the community.
  - 3. Any industrial or commercial use proposed by an applicant may be authorized only if the Planning Board finds that the specific industrial or commercial use as proposed will have no more significant effect upon abutting or nearby land and its existing uses than other similar industrial or commercial uses of the same category as defined by local, state, and federal codes and guidelines.

**SECTION 9.           ENFORCEMENT**

- A. Nuisances. Any violation of this Ordinance or any condition placed on a site plan approval shall be deemed to be a nuisance.
- B. Permit Required. No person shall engage in any use of land requiring a permit under the provisions of this Ordinance after the effective date of this Ordinance without first obtaining the required permit.
- C. 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 or any condition of site plan approval is being violated, he or she shall notify by registered mail the person or persons responsible for such violation, indicating the nature of the violation and order the action necessary to correct it, including discontinuance or illegal use of land, buildings, or structures, and abatement of nuisance conditions and establishing a date by which the action shall be taken, provided that if reasonable progress is being made to comply, the Code Enforcement Officer may extend the deadline for compliance. A copy of such notices shall be maintained as a permanent record.
- D. Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the municipal officers, upon notice from the Code Enforcement Officer, are hereby required to institute any and all actions for injection of violations and the imposition of fines, that may be necessary to enforce the provisions of this Ordinance in the name of the Town.
- E. This Ordinance is a land use ordinance and shall be enforced in the manner specified in 30-M.R.S.A., Subsection 4452. 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 nor more than \$2,500, and each day on which such violation(s) continue shall constitute a separate offense. The failure to comply with any condition imposed on a Site Plan Approval by the Planning Board shall be deemed a violation of this Ordinance.

**SECTION 10.           EXPIRATION OF NOTICE OF DECISION**

- A.     Following the issuance of a Notice of Decision, if no substantial start is made in construction or in the use of the property within one year of the date of the Notice, the Authority granted in the Notice of Decision shall lapse and become void. One-year extensions may be granted by the Planning Board, in its sole discretion, only upon written application by the owner of the property.

**SECTION 11.           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 requirement of any other ordinance, code or statute, the more restrictive requirement shall apply.

**SECTION 12.           APPEALS**

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or other aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, any abutting landowner, or other aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within 30 days after the Planning Board's decision is rendered. The Board of Appeals may reverse the Planning Board's decision after holding a public hearing, and upon application therefore, may grant a variance upon making a finding of undue hardship as defined in 30-A M.R.S.A. §4353(4). Public hearings shall be held according to Title 31A, M.S.R.A., Section 2691.

**SECTION 13.           AMENDMENTS**

This ordinance may be amended by a majority vote at any town meeting.

NAPLES PLANNING BOARD

1992 PHOSPHORUS REVIEW

LAKE	PROTECTION LEVEL LBS/ACRE/YR.	FAD LEVEL % DEV AREA
SEBAGO	.50	50%
PEABODY	1.0	50%
BRANDY	.75	35%
HOLT	1.25	35%
LONG	.75	35%
TRICKEY	.50	35%
COLD RAIN	1.0	35%

The above numbers represent the combination of the discussion between the Planning Board and the DEP, LEA, PWD and George Sawyer.

As adopted by the Naples Planning Board  
on January 5, 1993

Current phosphorus control standards are on file with the Code Enforcement Officer.