Blue Hill Commercial Site Plan Review Ordinance
Proposed Revisions as of November 18, 2013

Sections 1-7
All the Sections retain their original numbers and titles, the detailed numbering system in each sub-section has been revised to reflect a simpler format, easier to use.

Sections 1-7
Throughout the Ordinance, reference to a number is preceded by the typed word for that number, example: “one thousand (1000)"

Section 1A.
The Title of this Ordinance is now the “Blue Hill Commercial Site Plan Review Ordinance” as this is the title which has been consistently used through the years.

Section 1B.
In order to enact the listed changes in the revised Ordinance, we have to repeal the old version, this is the language which accomplishes that goal.

Section 1C.
The language in this Authority section is updated to reflect the current Articles in the Maine Constitution governing Municipal Home Rule.
The 30-A M.R.S.A. references (formerly called Title 30-A M.R.S.A.) have been updated which deal with Home Rule.
We have included the provisions of the Planning and Land Use Regulation Act (30-A M.R.S.A. §4312, etc. seq.), and the Enforcement of Land Use Laws and Ordinances (30-A M.R.S.A. § 4452)

Section 3 (E)(5)(h)
Added the word “current deed” to the first sentence to help us determine if there are any restrictions, easement problems, other problems which could be dealt with before they go any further.

Section 3(E)(6).(n.) 3.5.6.14. Location, front view, and dimensions of proposed signs; Elevation view of the building and signs, showing heights and materials.
This is a more specific request for information about the building, signs and materials to be used.

Section 3(E)(6).(o.) 3.5.6.15. Proposed landscaping and buffering;
Landscaping plan showing the building(s), existing and proposed vegetation, walkways and exterior lighting.
Drawings to be at the scale designated in Section 3.E.6 This is again, a more specific request for detailed information about the proposed building and surrounding landscaping plan conforming to our existing requirements for drawing scale depending on the size of the property.
Section 3(E).(6).(q.) q. **3.5.6.17.** An erosion control and sedimentation control plan setting forth the measures to be taken to comply with Section 4.5, below; This item is going to be moved to the bottom of this list, it will be the same, just listed as Item “s.”

q. The Board may, at its discretion, require the applicant to provide a visual impact assessment which may include photo simulations of the proposed facility taken from perspectives determined by the Planning Board, or their designee. This item is similar to the approved Town of Blue Hill Telecommunications Ordinance Section 6.(D.)

Section 3(E).(6).(s.) s. **3.5.6.17.** An erosion control and sedimentation control plan setting forth the measures to be taken to comply with Section 4.(E.), below; Explained above.

Section 3(E).(9).(b.) “DHS” is now called “DHHS”

Section 4(A.) “Archaeological” is now spelled “Archaecological” throughout the document, either spelling may be used, we are using the preferred spelling.

Section 4(E). (2.)(m.) “Title 38, MRSA. Sections 480 A and 480 S” (Natural Resource Protection Act) is now referenced as “38 MRSA § 480 A-Z”

Section 5(H.) “Title 38, MRSA. Sub Section 1022” is now referenced as “38 MRSA Sub § 1022”

Section 5(J.)(10) 10. **5.10.10.** “Adequate provision has been made to prevent any undue adverse effect upon adjacent or nearby properties.” or property values; Reason: This item of the Site Plan Review Criteria needs to have the “property values” part of the undue adverse effects on surrounding properties removed because it is not within the planning board’s scope of operation to delve into property values.
Section 5.(K.)

K. 5.11. Appeals

Any aggrieved person may appeal a decision to grant or deny a permit under this Ordinance, or the imposition of conditions of approval, Site Plan Approval, or the imposition of conditions of approval, to the Blue Hill Board of Appeals. Such appeal must be made within thirty (30) days of the date of the written decision from which appeal is taken.

Any appeal from the decision of the Board of Appeals may be taken within thirty (30) days of that Board’s decision. Such appeal shall be to the Hancock County Superior Court, pursuant to Maine Rule of Civil Procedure 80B.

Reason: The Town of Blue Hill has an Appeals Board and Appeals Ordinance which covers the process of appeal of decisions by the CEO or Planning Board.

Section 7. Definitions: Where we have updated the older definitions as follows:

1. **Aggrieved party or person:** Any person whose property is directly or indirectly affected, or who has suffered any other particularized injury, as a result of any Site Plan Review decision, and who has also taken part in the review process.
   **Aggrieved party** - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.
   
   *Reason: This is from our approved Shoreland Zoning Ordinance and is the most current definition*

2. **Agricultural activities:** The production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to forages and sod crops, grains and seed crops, dairy animals and dairy products, poultry and poultry products, livestock, fruits and vegetables, and ornamentals and greenhouse products. Agriculture does not include uses for the processing of agricultural products for market or consumption such as slaughterhouses, packing plants or canneries.
   
   *Reason: Correction of a typo error.*

3. **Coastal wetland:** All tidal and sub-tidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the maximum spring high tide level as identified in tide tables published by the National Ocean Service.
Coastal wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

NOTE: All areas below the highest annual tide level are coastal wetlands. These areas may consist of rocky ledges, sand and cobble beaches, mud flats, etc., in addition to salt marshes and salt meadows.

(See “Normal high water line” definition in the SLZ Ordinance)

Reason: This is from our approved Shoreland Zoning Ordinance and is up to date. The reference to seeing “Normal high water line” is to help with clarifying the definition.

4. Expansion of a use: The use of more floor area or ground area devoted to a particular use.

Enlargement or Expansion of Use: Any intensification of use in time, volume or function, whether or not resulting from an increase in the footprint, height, floor area, land area or cubic volume occupied by a particular use. Increases which are required in order to meet the requirements of the Americans with Disabilities Act and/or the State Fire Code are not considered to be enlargements or expansions of use.

(from State of Maine Basic Land Use Model, Appendix A)

Reason: This is a much clearer definition than the one we had to use and makes it easier for everyone to understand.

5. Forest management activities: Added “All activities are handled by the Maine Forest Service.”

Reason: The Maine State Forestry Dept. now handles all our Forest Mgt. Activities.

6. Freshwater wetland:

We typed in the words for the number ten (10) in three places.

Reason: The Ordinance consistently uses this form for numbers to avoid any confusion.

7. Height of structure: The vertical distance between the mean elevation of the
finished grade of the building and the highest point of the roof. For those structures without roofs, the highest point of the structure. For structures with multiple roofs, each roof shall be considered in relation to the finished grade upon which that part of the structure rests.

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

*Reason:* This definition is appropriate to ensure a shorter building by using the downhill side and is simple and to the point. It comes from our approved SLZ Ordinance.

8. **Home occupation:** Those businesses which may be conducted within a residential dwelling or accessory structure without substantially changing the appearance or condition of the residence or accessory structures, and which are carried on primarily by those residing in the residence.

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

   *Reason:* This definition is clear, a little more broad, not at all vague and comes from our approved SLZ Ordinance.

9. **Normal high-water line:**
   a. **Coastal waters:** The elevation at which vegetation changes from predominately salt tolerant to predominately non-salt tolerant.
   b. **Inland waters:** The line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominately aquatic and predominately terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

   **Normal high-water line** (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominately aquatic and predominately terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

   *NOTE:* Adjacent to tidal waters, setbacks are measured from the upland edge of the “coastal wetland.” (see “Coastal Wetland”)

   *Reason:* The wording is up to date and clearer. It is used in our approved SLZ Ordinance.
10. **Recreational vehicle:** A vehicle or attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home.

   **Recreational vehicle** - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

   *Reason: This definition is more complete, current and very clear.*

11. **River:** A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth.

   **River** - A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. *NOTE:* The portion of a river that is subject to tidal action is a coastal wetland.

   *Reason: This is from the approved SLZ Ordinance and it refers the reader back to the Coastal wetland definition in this Ordinance.*

12. **Subdivision:** see the Blue Hill Subdivision Ordinance. All land use activities defined as a “Subdivision” in Title 30-A M.R.S.A. § 4401, and as it may be later amended, except for those leased dwelling units which are subject to review under the “Blue Hill Commercial Site Plan Review Ordinance”

   *Reason: This spells out what is in the Blue Hill Subdivision Ordinance without the reader having to go back and look it up each time.*