

The Bar Harbor Town Council will hold a public hearing August 19, 2025 to hear comments on the following proposed amendment to the Land Use Ordinance and consider placing the amendment on the November 4, 2025 Town Meeting Warrant.

WARRANT ARTICLE

Article XX LAND USE ORDINANCE AMENDMENT: Site Plan and Subdivision Plan Review – Shall an ordinance, dated June 4, 2025, and entitled “**An amendment to site plan and subdivision plan review**” be enacted?

SUMMARY

The amendment would integrate regulations from Article V Site Plan Review and from Article VI Subdivision Review into a single, revised Article V. It would reorder the sections to better align with the typical progression of an application from submission to approval. It would also provide similar review steps for all projects subject to site plan review and standardize the calculation and application of timeframes across various review processes including compliance with the Subdivision State Law.

GENERAL EXPLANATION

The amendment would integrate regulations from Article V Site Plan Review and from Article VI Subdivision Review into a single, revised Article V. It would:

- *Clarify that the use of the term **site plan** refers to **four types of plans: major site plans, major subdivision plans, minor site plans, and minor subdivision plans**, and that the process and standards for major site plans apply to all plans unless specifically stated otherwise.*
- ***Reorder the sections** to better align with the typical progression of applications from submission to approval.*
- *Make **sketch plan review** an elective step for the applicants for major subdivision plans and planned unit developments, as well as for major site plans. Currently, sketch plan is a required step for major subdivision plans and planned unit developments. This amendment would also make sketch plan review an option for the applicants for major site plans which is not an option in the current ordinance.*
- *Allow the Planning Board and the Planning Director to decide whether a Planning Board **site visit** is necessary, on a case-by-case basis, for major subdivision plans and planned unit developments, as well as for major site plans. Currently, a site visit is required for major subdivision plans and planned unit developments. This amendment would also make a site visit an option for major site plans which is not an option in the current ordinance.*
- *Allow the Planning Board and the Planning Director to decide whether the applicant should hold a **neighborhood meeting**, on a case-by-case basis, for major subdivision plans and planned unit developments, as well as for major site plans. Currently, a neighborhood meeting is required for planned unit developments but an option to the Planning Board for major subdivision plans. This amendment would also make a neighborhood meeting an option for major site plans which is not an option in the current ordinance.*

- *Standardize the calculation and application of **timeframes** across various review processes. This includes making sure the timeframes for major subdivision plans meet the State Subdivision Law requirements. It would also change the application submission deadlines to match the Planning Board's meeting schedule. These changes would create more realistic timeframes for the overall processing of applications.*
- *Change the time allowed for **approval of minor site plans**. Currently, the Planning Director has 15 business days to approve minor site plans. The change would increase the approval time to 30 calendar days. This new timeframe would match the time allowed for approving building permits.*

LUO Amendment #2025-08
Site Plan and Subdivision Plan Review
 Town of Bar Harbor

An amendment to the Land Use Ordinance
Articles V and VI

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

Article V. Site Plan

§ 125-57. Purpose.

~~Site plan review regulations are established to promote the public health, safety and general welfare by requiring to be submitted to the Planning Board's review plans for certain uses or structures which have a significant impact on the neighborhood or the environment but which, when properly designed with respect to their surroundings, can become uses or structures that are compatible with the neighborhood and environment. The provisions set forth in this chapter are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that development subject to site plan review is designed and developed in a manner that assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of stormwater, erosion and sedimentation; protection of groundwater; protection of the environment, wildlife habitat, fisheries and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.~~

§ 125-58. Site plan review required.

- ~~A. Except as provided in Subsection B(1), (2), (3), and (4) below, major site plan review and approval by the Planning Board shall be required for:~~
- ~~(1) Any use designated in Article III as requiring site plan review;~~
 - ~~(2) Construction, substantial alteration or external enlargement of any building or structure devoted to a use requiring site plan approval;~~
 - ~~(3) Creation of any subdivision as defined by the laws of the State of Maine, provided that such~~

review shall be modified in accordance with the provisions of Article VI.

- B. Minor site plan review and approval by the Planning Department shall be substituted for major site plan review in cases of:
 - (1) Modifications to a previously approved site plan not involving substantial alteration to the site plan or substantial external enlargement of any building or structure, or to a previously approved subdivision plan where no additional lots are proposed to be created or where no more than two additional units are proposed to be added;
 - (2) Uses designated in Article III as requiring site plan review with no changes to foundation or footprint area of existing structures as proposed;
 - (3) Construction of a foundation area not exceeding 400 square feet, provided that only one such new construction project shall be permitted in any five year period without site plan review on a lot; or
 - (4) Those projects which, in the opinion of the Planning Board, will not have a significant impact on the neighborhood or on the environment and meet the purpose of site plan without public review.
 - (5) Home occupations on lots with frontage on Routes 3 and 102.
 - (6) Wind turbines.

§ 125-59. Site plan review not required.

Unless specifically required by Article III, site plan review shall not be required for:

- A. Uses designated in Article III as requiring only a permit from the Code Enforcement Officer or as requiring no permit at all;
- B. Change of a one-story building that is to be externally changed for the sole purpose of closing an entrance or creating a new one.⁴

§ 125-60. Prohibition.

No activity or use described in § 125-58 shall be commenced unless and until the property owner has received site plan approval from the Planning Board, or the Planning Department, as applicable, has provided to the Town any required performance guarantees, and has received any necessary permits from the Code Enforcement Officer under Article VII.

§ 125-61. Review procedure.

- A. Preapplication meeting.
 - (1) Major site plans. Prior to submitting a formal application for site plan review to the Planning Board, an applicant shall meet with the Planning Department for the purpose of reviewing such application. Following said meeting the applicant may either revise the application in accordance with any recommendations of the Planning Department and thereafter repeat this step or may request the application be submitted to the Planning Board at its next regularly scheduled meeting.
 - (2) Minor site plans. At least five business days prior to submitting an application for a minor site plan review, an applicant shall meet with the Planning Department for the purpose of reviewing such application.
 - (3) Projects to be reviewed by the Planning Board for eligibility under § 125-58 B(4) shall be submitted to the Planning Board at least seven business days prior to a regularly scheduled meeting.
- B. Submissions generally.
 - (1) Submissions by applicants. At such time as an applicant requests an application to be submitted to the Planning Board, the applicant shall pay all fees required by § 125-65 and shall

provide to the Planning Department 10 copies of all application materials, including all plans and supporting documentation that are submitted as part of the review process. Beginning with the application form provided by the Planning Department, each submission shall be conspicuously labeled "Applicant's Exhibit 1," "Applicant's Exhibit 2," and so on, in consecutive fashion. Each submission consisting of more than one page shall be clearly paginated and stapled together. All submissions provided by an applicant at any later stage of the review process shall be provided in the same quantity and shall be similarly labeled, paginated and stapled.

- (2) ~~Submissions by opponents and others. At least two days prior to any public hearing, any other person wishing to present documentary evidence to the Planning Board shall provide to the Planning Department copies of all such evidence in form and quantity described in Subsection B(1), except that each submission shall be conspicuously labeled with that person's surname followed by "Exhibit 1," "Exhibit 2," and so on, in consecutive fashion. At such time as a person provides such documentary evidence to the Planning Board, he/she shall also provide one copy of such evidence to the applicant or the applicant's representative.~~
- (3) ~~Submission deadlines.~~
 - (a) ~~Under no circumstances shall submissions be accepted from any party or considered by the Planning Board after an application has been deemed complete and a hearing has commenced unless:
 - [1] ~~All parties agree to the submission;~~
 - [2] ~~The Planning Board has accepted submissions from the applicant on the same day on which the hearing is scheduled, in which case any other persons shall be given seven days to present any documentary evidence in response to such submissions;~~
 - ~~or~~
 - [3] ~~The Planning Board has, pursuant to § 125-66Y, requested the submission of additional information, in which case all parties shall be allowed to submit evidence relating to the Board's request.~~~~
 - (b) ~~For purposes of this section, a minor modification or clarification of a previous submission shall not constitute a new submission. Nothing in this section shall be construed to prohibit testimony relating to an application's compliance with review standards, notwithstanding whether there is a submission on the issue.~~
 - (c) ~~After an application has been deemed complete, all parties shall have a minimum of seven days to review new submissions.~~

~~C. Receipt. Upon receipt of all required fees and the requisite number of copies of application materials, the Planning Director shall issue the applicant a dated receipt and shall submit the application to the Planning Board at its next regularly scheduled meeting occurring at least 10 days and not later than 30 days thereafter.~~

~~D. Mailed notice of receipt of application.~~

- (1) ~~Time of mailing. At least 10 days prior to the initial completeness review pursuant to the previous section, written notice of the receipt of an application and the date of the initial completeness review shall be mailed by first class mail to the owners of all property within 300 feet of the outer boundary of the property in question and, if the proposed development is within 500 feet of a Town line, to the Town Clerk and Chairperson of the Planning Board of the adjacent Town. The owners of property shall be considered to be those shown on the Town's tax list as the persons against whom taxes are assessed. The Planning Board shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the Town tax records. Failure of any property owner to be sent or actually to receive notice shall not necessitate another hearing or~~

- ~~invalidate any actions of the Planning Board taken in good faith.~~
- (2) Content of notice. Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the initial completeness review and explain how the recipient of the notice may review the application, attend the completeness review and hearing, present evidence and otherwise participate in the process.
- E. Completeness review for major site plan.
- (1) Generally. Upon receipt of an application, the Planning Board shall conduct an initial review for the sole purposes of determining whether the application is complete and establishing the initial amount of any technical assistance fee to be assessed pursuant to § 125-65D. If the application is deemed complete, it shall be deemed pending, and the Planning Board shall set the matter for a public hearing to take place within 45 days of the initial review. Waiver of submission requirements. At the time of its initial review of an application, the Planning Board shall, at the applicant's request, attempt to clarify any of the procedural requirements of this chapter and act on any request to waive any of the submission requirements of this chapter that it is authorized to waive pursuant to § 125-63. Refusal of the Planning Board to grant a waiver shall require the applicant to submit the material for which a waiver was requested and to repeat the procedures outlined in Subsections A and E(1). In no event shall an application be deemed to be pending until and unless it has been deemed to be complete, nor shall the Planning Board conduct a substantive review, a review of the application to determine whether it complies with the standards set forth in this chapter and with other applicable requirements of law, until the application has been deemed complete.
- F. Hearing for major site plan. Within 45 days of the Planning Board's certification that an application for site plan review is complete, the Planning Board shall conduct a public hearing on said application in accordance with the following:
- (1) Notice of hearing. Notice of said hearing shall be given to the applicant and shall be published at least twice in a newspaper of general circulation in the Town of Bar Harbor, with the first publication occurring at least seven days prior to the hearing date. Notice to abutters shall be mailed by first class mail as per § 125-61D(1), except such mailing shall occur within 10 business days from the public hearing. Such notice shall contain the same language as the newspaper notice.
- (2) Scope of hearing. The only issue to be considered at the hearing is whether the application and the proposed development will comply with the review standards set forth in §§ 125-67, 125-68 and 125-69. The Board shall exclude any evidence not relevant to that issue.
- (3) Rules. Said hearing shall be conducted according to rules adopted by the Planning Board.
- (4) Representation. At any hearing a party may be represented by an agent or attorney; provided, however, that if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.
- (5) Continuation. Any hearing may be continued or recessed to another time for good cause shown.
- (6) Staff support. The Code Enforcement Officer and Planning Director may attend all hearings and present to the Planning Board plans, photographs or other materials they deem appropriate for the clearer understanding of a pending application.
- (7) Deliberation and decision. Within 30 days after the public hearing on an application, the Planning Board shall deliberate to determine whether the proposed plan complies with all applicable review standards set forth in §§ 125-67, 125-68 and 125-69. If the Planning Board finds that the proposed plan complies with all such standards it shall issue an order granting site plan approval subject to the applicant's providing to the Town of Bar Harbor a

performance guarantee in accordance with Article IX and to such other reasonable terms and conditions, including the provision by the applicant of improvements not located on the proposed development site, that the Board considers advisable to ensure compliance with site plan review standards or to protect the public's health, safety, or general welfare. If the Planning Board finds that the proposed plan does not comply with all applicable review standards, it shall issue an order denying site plan approval. In either case the Planning Board shall, within 10 working days after the completion of its deliberations, issue specific written findings of fact supporting its decision.

G. ~~Minor site plans and subdivision modifications. The Bar Harbor Planning Department shall review a minor site plan application or a subdivision modification application under § 125-58B(3), as follows:-~~

- ~~(1) Within five business days after the preapplication meeting required by § 125-62A(2), the Planning Department shall provide the applicant with a list of those materials set forth in § 125-66 which the Planning Department determines will be required for minor site plan or subdivision modification review.~~
- ~~(2) Mailed notices as per § 125-61D shall occur. Public comment will be received and reviewed by the Planning Department up to 10 business days after mailing of notice.~~
- ~~(3) Within 15 business days after receipt of the minor site plan application, the Planning Department shall determine if the submission complies with §§ 125-67, 125-68, and 125-69, to the extent the Planning Department determines such provisions are applicable to the proposal. The Planning Department may impose conditions necessary to ensure compliance with the requirements of this chapter and shall notify the Code Enforcement Officer in writing of any such conditions. If the Planning Department does not act on an application for minor site plan review within 15 business days after receipt of an application, such application shall be deemed denied.~~
- ~~(4) Within 15 business days after receipt of the minor subdivision modification application, the Planning Department shall determine if the submission complies with §§ 125-67, 125-68, and 125-69, to the extent the Planning Department determines such provisions are applicable to the proposal. The Planning Department then places a recommendation for endorsement, if applicable, on the next available regular meeting of the Planning Board. The Planning Board may impose conditions necessary to ensure compliance with the requirements of this chapter and shall notify the Code Enforcement Officer in writing of any such conditions. If the Planning Board does not act on an application for subdivision modification within 25 business days after receipt of an application, such application shall be deemed denied. The provisions of §§ 125-72, 125-73 and 125-74 do not apply to a subdivision modification under § 125-58B(3).~~
- ~~(5) At the applicant's election, applications eligible for minor site plan review may be submitted to the Planning Board for consideration under major site plan review.~~
- ~~(6) An applicant may submit one minor site plan or minor subdivision plan in any three year period per parcel of land. If an applicant wishes to submit more than one minor site plan or minor subdivision plan on the same parcel of land within a three year period, the Planning Board shall be consulted to determine the appropriate review per § 125-58B(4).~~

H. ~~Other permits. The granting of site plan approval does not relieve the applicant from the need to obtain any other permits or approvals required prior to the commencement of any activity or use described in § 125-58. Such other required permits or approvals may include, but are not limited to, subdivision approval, building, plumbing and electrical permits, licenses granted pursuant to 38 M.R.S.A. § 1022, Maine Department of Environmental Protection and United States Army Corps of Engineers' approvals, subsurface wastewater disposal permits, sewer connection permits, Maine Department of Transportation approvals, and the like. The fact that the applicant may have obtained~~

or may have been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance. Site plan approval shall not be granted, however, until zoning compliance has been confirmed or any necessary relief and/or finding from the Board of Appeals has been received or certificates of appropriateness reviewed by the Design Review Board pursuant to Article XIII, Design Review, as applicable, have been granted.

- I. ~~Recording. All proceedings of the Planning Board, including public hearings and deliberations, but except proceedings legally conducted in executive session, shall be electronically or stenographically recorded.~~
- J. ~~Failure to act. Failure of the Planning Board to act within any of the time requirements set forth herein shall constitute a denial of the application.~~

~~§ 125-62. Standard conditions.~~

~~All activities, uses or developments approved pursuant to this Article V shall comply with the standard conditions set forth in Article VIII.~~

~~§ 125-63. Waiver of submissions.~~

~~The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in § 125-66 provided such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.~~

~~§ 125-64. Modification of standards.~~

~~The Planning Board may, only upon the written request of an applicant specifically stating the reasons therefor, modify the site plan review standards when necessary to protect the public health, safety, or welfare or to address particular site characteristics. In no event shall the Planning Board grant a modification that has the effect of altering or nullifying the purpose or intent of municipal zoning, the Comprehensive Plan, or Article III of this chapter. In granting modifications under this section, the Planning Board may impose performance conditions reasonably necessary to promote the purposes, goals and objectives of the Land Use Ordinance and the Comprehensive Plan.~~

§ 125-57. Purpose and intent of site plan review.

- A. **Purpose.** The purpose of site plan review is to promote and protect the public health, safety, and general welfare by ensuring that certain development proposals, particularly those with the potential for greater impact on surrounding properties, the natural environment, infrastructure, or community character, are subject to review by the Planning Board.

B. Scope and use of the term site plan.

- 1. **Site plan.** The term site plan, when used without further qualification, shall encompass all four distinct categories of development plans: major site plan, major subdivision plan, minor site plan, and minor subdivision plan. This inclusive term applies unless otherwise expressly differentiated.
- 2. **Site plan and subdivision plan relationship.** Subdivision plan is a particular application of site plan. Accordingly, all procedural and submission requirements, and performance standards applicable to site plan review shall also govern subdivision plan

review. In addition to these shared provisions, subdivision plans are subject to additional requirements, as explicitly outlined in this article.

3. **Inclusion of minor subdivision plans within minor site plan:** The term minor site plan, when used, shall be construed to include minor subdivision plan. This means that provisions referencing minor site plan will also pertain to minor subdivision plan, unless otherwise explicitly stated.
 4. **Applicability of major site plan requirements to minor site plan:** The procedural and submission requirements, and performance standards, established for major site plans shall be equally applicable to minor site plans, unless otherwise explicitly stated.
- C. **Uses and dimensional requirements and conditions.** All activities, uses or developments approved pursuant to this section shall comply with Article III and with Article VIII.
- D. References to Planning Director in this section means Planning Director or their designee.
- E. References to days in this section means calendar days.

§ 125-58. Site plan review: levels and requirement.

- A. **Major site plan review required.** Except as provided in 125-58 B(1) through (4), major site plan review and approval by the Planning Board shall be required for the following:
- (1) Uses allowed by site plan as designated in Article III.
 - (2) The construction, substantial alteration, or external enlargement of any building or structure associated with a use allowed by site plan approval.
 - (3) The creation of any subdivision, as defined by the laws of the State of Maine.
- B. **Minor site plan review authorized.**
- (1) Review and approval of minor site plan by the Planning Director is authorized in lieu of major site plan for projects that meet one or more of the following:
 - (a) Modifications to a previously approved site plan that do not involve substantial alterations to the site plan layout or substantial external enlargement of any building or structure.
 - (b) Modifications to a previously approved subdivision plan (plat) that do not create any additional lots or new dwelling units.
 - (c) Uses in Article III allowed by site plan, provided no changes to foundation or footprint area of existing structures are proposed.
 - (d) Uses in Article III allowed by site plan, for the construction of a foundation area not exceeding 400 square feet that will have no significant impact on the neighborhood and on the environment, and provided that no more than one such project is permitted on a lot within a 5-year period without major site plan review.
 - (2) Projects which, in the opinion of the Planning Board, will not have a significant impact on the neighborhood or on the environment, and meet the purpose of site plan without public review.
 - (3) Home occupations on lots with frontage on Routes 3 and 102.
 - (4) Wind turbines.
- C. **Option for major site plan review.** Notwithstanding the eligibility for minor site plan review, applicants may choose to have their application reviewed by the Planning Board under the procedures for major site plan review.

D. Limitation of frequency of minor site plan applications. An applicant may submit only one minor site plan per parcel of land within any 3-year period. If the applicant wants to submit additional minor site plans or minor subdivision plans for the same parcel within that timeframe, the Planning Board shall be consulted to determine the appropriate level of review pursuant to § 125-58B(2).

§ 125-59. Site plan review not required.

A site plan review shall not be required for the following:

- A. Uses identified in Article III that either require only a permit from the Code Enforcement Officer or require no permit at all; or
- B. Modifications to a one-story building where the only exterior change is the closure of existing entrances or the creation of new entrances.

§ 125-60. Reserved

§ 125-61 Conditions for commencement for approved site plan work.

No activity or use described in § 125-58 may commence unless and until:

- A. The property owner has obtained site plan approval from the Planning Board or, where applicable, the Planning Director;
- B. All conditions listed in the signed decision are met.
- C. All required performance guarantees have been submitted to the Town; and
- D. All necessary permits have been issued by the Code Enforcement Officer pursuant to Article VII.

§ 125-62 Revisions, restrictions, and recording requirements.

- A. General.
The Planning Board or Planning Director's review of a proposed revision or amendment to a previously approved site plan shall be limited to those portions of the plan that have been changed.
- B. Site plan.
All site plans shall include a project name and date on the final plan, and a revision or amendment to a site plan shall include the name of the plan being revised or amended.
- C. Subdivision plan.
 - 1. No plan of a division of land which would constitute a subdivision shall be recorded in the Hancock County Registry of Deeds until a subdivision plan has been approved by the Planning Board in accordance with this article.
 - 2. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Hancock County Registry of Deeds.

3. Development of a subdivision without Planning Board approval is prohibited including grading or construction of roads, grading of land or lots, or construction of buildings which requires a subdivision plan approved, as provided in this article.
4. Construction of temporary accessways with a maximum traveled width of 12 feet, other site work or field investigations undertaken for the sole purpose of obtaining site information necessary for a future subdivision application to the Planning Board such as mineral exploration or drilling of test wells , as outlined in 125-66 N (4) shall not be considered development activity and therefore shall not require Planning Board approval. Such activities may proceed only upon the issuance of a building permit by the Code Enforcement Officer who shall determine whether the proposed work meets the intent and requirements of this exemption. No construction or site work permitted under this provision shall commence prior to a pre-application (checklist) meeting with the Planning Director.
5. A subdivision plan must be in a form and format suitable for recording in the Hancock County Registry of Deeds.
6. In addition to 125-62 B, all subdivision plans shall include a signature block on the bottom right hand corner providing space for the approval date and 7 signatures. And, a revision or amendment to a subdivision plan shall include the recorded book and page or cabinet and sheet of the plan being revised or amended.
7. The Planning Board shall sign and date 2 paper copies of the approved subdivision plan, one of which shall be retained by the Planning Director and one of which shall be returned to the applicant for recording in the Hancock County Registry of Deeds, within 45 days of the approval by the Planning Board or by the Planning Director in the case of minor subdivision review. Within 90 days of the date when an approved subdivision plan is signed by the Planning Board, the applicant shall provide the Planning Director with proof of recording at the Hancock Registry of Deeds or the plan shall become null and void.
8. The Planning Board shall not approve subdivision plans that are not sealed or stamped, and signed by a State of Maine professional land surveyor.

§ 125- 63. Site Plan review procedure.

A. Submission requirements and deadlines for site applications.

All application documents, including initial or subsequent supporting documentation, for projects subject to Planning Board review must be submitted in accordance with the 18-month schedule adopted by the Planning Board each December, subject to change from time to time. Projects that fall under 125-58 D will be accepted on the date of the “deadline to submit post-TRT revisions.” This schedule includes deadlines for the submission of application materials, exhibits, and any required follow-up documents. Compliance with these deadlines is required to ensure the application is eligible for review at the Planning Board’s next regular scheduled meeting.

B. Pre-application meeting (checklist meeting) – mandatory.

At least 10 days before submitting a site plan application to the Planning Board or to the

Planning Director, as applicable, the applicant shall have a checklist meeting with the Planning Director. The purpose of the meeting is to review the proposed conceptual project and identify the materials set forth in 125-66 which the Planning Director determines will be required. Within 7 days after the pre-application meeting, the Planning Director must provide a written list to the applicant of the materials required for submission. After this meeting, the applicant may proceed with submitting an application to the Planning Board or the Planning Director, as applicable.

C. Sketch plan – Optional

- (1) Prior to formally requesting site plan review, an applicant may submit a pre-application sketch plan for informal review by the Planning Board. The sketch plan is a conceptual representation of the proposed development intended to facilitate early discussion of project goals, ordinance requirements, and potential issues, allowing the applicant to receive preliminary feedback before incurring design or engineering costs.
- (2) The sketch plan application must include the following information:
 - (a) Evidence of right, title, or interest in the property.
 - (b) Copy of deed and any existing covenants, conditions, or restrictions affecting the property.
 - (c) General description of existing conditions on the lot and description of the proposed project.
 - (d) Location map showing the general location of the property within the town.
 - (e) U.S. Geological Survey topographic map of the property.
 - (f) Sketch of existing and proposed conditions, including:
 - [1] Major natural and man-made features.
 - [2] Existing and proposed utilities.
 - [3] Road access and significant site features.
 - [4] Graphic scale, date, and north arrow.
 - [5] Tax map reference, land use district, and lot size.
- (3) Fee. Proof of payment of the required administrative fee.
- (4) Deadline for submission. A sketch plan, along with supporting documentation, shall be submitted to the Planning Department per 125-63 A.
- (5) Form. A sketch plan and supporting documentation, together with a completed application form provided by the Planning Director, shall be submitted in the form and quantity described in § 125-63 D, except that each submission shall be conspicuously labeled "Sketch Plan Exhibit 1," "Sketch Plan Exhibit 2," and so on, in consecutive fashion.
- (6) Notice of receipt of sketch plan. Notice of receipt of a sketch plan shall be provided in accordance with 125-63 H.
- (7) Review of sketch plan. During its review of a sketch plan, the Planning Board shall allow brief public comment for the limited purpose of informing the applicant of any public concerns. This input is intended to help the applicant consider such concerns when preparing their formal application.
- (8) Suggestions. Upon its review of a sketch plan, the Planning Board may provide

suggestions for the applicant to consider incorporating into future submissions.

(9) **Rights not vested.** The submission, review, or receipt of public comments on a sketch plan shall not be construed as a substantive review, as defined by 1 M.R.S.A. § 302.

D. **Formal site plan application submission requirements.** At such time as an applicant requests an application to be submitted to the Planning Board, the applicant shall pay all fees required by § 125-65, and shall provide to the Planning Director 10 copies of all application materials, including all plans and supporting documentation that are submitted as part of the review process. Beginning with the application form provided by the Planning Director, each submission shall be conspicuously labeled "Applicant's Exhibit 1," "Applicant's Exhibit 2," and so on, in consecutive fashion. Each submission consisting of more than one page shall be clearly paginated and stapled together. All submissions provided by an applicant at a later stage of the review process shall be provided in the same quantity and shall be similarly labeled, paginated and stapled, and on meet the submission deadline of 125-63 A.

E. **Submission of opposition and public response documents to a site plan application.** At least 2 days prior to any public hearing, any other person wishing to present documentary evidence to the Planning Board shall provide to the Planning Director copies of all such evidence in form and quantity described in 125-63 D, except that each submission shall be conspicuously labeled with that person's surname followed by "Exhibit 1," "Exhibit 2," and so on, in consecutive fashion. The Planning Director must share these submissions with the Planning Board and the applicant or their representative.

F. **Restrictions on submissions after application completeness.**

(a) Under no circumstances shall submissions be accepted from any party or considered by the Planning Board after an application has been deemed complete and a hearing has commenced unless:

[1] All parties agree to the submission.

[2] The Planning Board has accepted submissions from the applicant on the same day on which the hearing is scheduled, in which case any other persons shall be given seven days to present any documentary evidence in response to such submissions.

[3] The Planning Board has, pursuant to § 125-66Y, requested the submission of additional information, in which case all parties shall be allowed to submit evidence relating to the Board's request.

(b) Minor modifications or clarifications to previous submissions shall not be considered new submissions. Nothing in this section shall be construed to prohibit testimony relating to an application's compliance with review standards, notwithstanding whether there is a submission on the issue.

(c) After an application has been deemed complete, all parties shall have a minimum of 7 days to review new submissions.

G. **Receipt of application and initial processing.** Upon receiving all required fees and the specified number of application copies, the Planning Director shall issue a dated receipt to the applicant. The Planning Board shall consider the applications at its next regularly scheduled meeting, which shall be no later than 45 days thereafter.

H. **Mailed notice of receipt of application.**

- (1) **Time of mailing.** At least 10 days prior to the initial completeness review pursuant to the previous section, written notice of the receipt of an application and the date of the initial completeness review shall be mailed by first-class mail to the owners of all property within 300 feet, or 600 feet for a planned unit development – Outlying Area, of the outer boundary of the property in question and, if the proposed development is within 500 feet of a Town line, to the Town Clerk and Chairperson of the Planning Board of the adjacent Town. The owners of property shall be those shown on the Town's tax list as the persons against whom taxes are assessed. The Planning Director shall, in each case, maintain a list of property owners so notified. Notice shall be deemed received if mailed to an owner's last known address according to the Town tax records. Failure of any property owner to be sent or to receive notice shall not necessitate another hearing or invalidate any actions of the Planning Board or the Planning Director taken in good faith.
- (2) **Content of notice.** Notice of said hearing shall identify the applicant and the property involved, describe the specific nature of the proposal, state the date, time and place of the initial completeness review and explain how the recipient of the notice may review the application, attend the completeness review and hearing, present evidence and otherwise participate in the process.

I. Completeness review for major site plans.

- (1) **Generally.** Upon receipt of an application, the Planning Board shall conduct an initial review for the sole purpose of determining whether the application is complete and establishing if there is a need for technical assistance per § 125-65D. At the time of its initial review of an application, the Planning Board shall consider and act upon any requests to waive submission requirements, as authorized under § 125-64 A.
- (2) **Vested rights.** If the application is deemed complete, it shall be deemed pending, and the Planning Board shall set the matter for a public hearing to take place within 30 days of the initial review.
- (3) **Rights not vested.** If the application is not deemed complete, it shall not be deemed pending.
- (4) **Scheduling of a public hearing.** The Planning Board may schedule a public hearing on an application even if it has not yet been deemed complete. However, the Board shall not open the public hearing or commence substantive compliance review such as evaluating the application's compliance to the standards set forth in this chapter and other applicable legal requirements until the application has been deemed complete.

J. Site Visits and Neighborhood Meetings

1. Site Visits

- (a) **Purpose.** The Planning Board, or the Planning Director in consultation with the Planning Board Chair may, at its discretion, schedule a site visit to proposed development locations to better understand the context and potential impacts of an application.
- (b) **Timing.** Site visits may be conducted at any point during the application review process, including prior to deeming an application complete, during compliance review, or before final decision-making.
- (c) **Public Notice.** All site visits shall be considered public meetings. Notice of the date, time, and location and purpose shall be provided in accordance with 125-63 H and be sent at least 10 days prior to the site visit.
- (d) **Conduct.** Board members shall refrain from deliberations or decision-making during

site visits.

2. Neighborhood Meetings

- (a) **Purpose.** To facilitate community engagement and gather public input, the Planning Board, or the Planning Director in consultation with the Planning Board Chair may, at its discretion, require applicants to hold neighborhood meetings.
- (b) **Timing:** Such meetings should be held prior to the public hearing.
- (c) **Notification:** Applicants shall notify abutters and the Planning Director at least 10 days in advance of the meeting, providing details on the date, time, location, and purpose.
- (d) **Documentation:** A summary of the meeting, attendees, issues raised, and responses provided, shall be submitted with the application.

K. Public hearing and compliance review for major site plan.

Within 30 days of the Planning Board's certification that an application for site plan review is complete, the Planning Board shall conduct a public hearing on said application in accordance with the following:

- (1) **Notice of hearing.** Notice of said hearing shall be given to the applicant and shall be published at least twice in a printed newspaper of general circulation in the Town of Bar Harbor. The date of the first publication must be at least 7 days before the hearing. Notice to abutters shall be mailed by first-class mail as per § 125-63 H, except such mailing shall occur within at least 14 days from the public hearing. Such notice shall contain the same language as the newspaper notice.
- (2) **Scope of hearing.** The only issue to be considered at the hearing is whether the application and the proposed development will comply with the review standards set forth in §§ 125-67, 125-68 and 125-69. The Board shall exclude any evidence not relevant to that issue.
- (3) **Rules.** Said hearing shall be conducted according to rules adopted by the Planning Board.
- (4) **Representation.** At any hearing a party may be represented by an agent or attorney; provided, however, that if any party is not present, any person acting as that party's agent or attorney shall provide written evidence of such authority.
- (5) **Continuation.** Any hearing may be continued or recessed to another time for good cause.
- (6) **Staff support.** The Code Enforcement Officer and Planning Director may attend all hearings and present to the Planning Board plans, photographs or other materials they deem appropriate for the clearer understanding of a pending application.
- (7) **Deliberation and decision.** Within 30 days after the public hearing on an application, the Planning Board shall deliberate to determine whether the proposed plan complies with all applicable standards set forth in §§ 125-67, 125-68 and 125-69. If the Planning Board finds that the proposed plan complies with all such standards it shall issue an order granting site plan approval subject to the applicant providing to the Town of Bar Harbor a performance guarantee in accordance with Article IX and to such other reasonable terms and conditions, including the provision by the applicant of improvements not located on the proposed development site, that the Board considers advisable to ensure compliance with site plan review standards or to protect the public's health, safety, or general welfare. If the Planning Board finds that the proposed plan does not comply with all applicable review standards, it shall issue an order denying site plan approval. In either case the Planning Board shall, within 15 days after the completion of its deliberations, issue specific written findings of fact supporting its

decision.

L. **Review procedure for minor site plans.** The Planning Director shall review a minor site plan application, under § 125-58B, as follows:

- (1) A pre-application meeting (checklist meeting) shall be conducted in accordance with 125-63 (B).
- (2) The application shall be submitted in accordance with 125-63 (D), with the exception that only 3 copies are required to be submitted to the Planning Director.
- (3) A notice of receipt of application will be mailed in accordance with section 125-63(H). However, for minor site plan applications, this mailing will be sent within 14 days of application receipt, a time frame that is different from the standard completeness review process. In addition, the notice for minor site plans will specify that the Planning Director will accept and review public comments for up to 14 days following mailing date. This differs from the completeness review notice, which identifies a Planning Board meeting date.
- (4) Within 30 days after receipt of the minor site plan application, the Planning Director shall determine if the submission complies with §§ 125-67, 125-68, and 125-69, to the extent the Planning Director determines such provisions are applicable to the proposal. The Planning Director does not have the authority to modify standards. The Planning Director may impose conditions necessary to ensure compliance with the requirements of this chapter and shall notify the Code Enforcement Officer in writing of any such conditions. If the Planning Director does not act on an application for minor site plan review within 30 days after receipt of an application, such application shall be deemed denied.
- (5) For a minor subdivision plan application, the Planning Director then places a recommendation for endorsement, if applicable, on the next available regular schedule meeting of the Planning Board. If the Planning Board does not endorse the application for subdivision modification such application shall be deemed denied.

L. **Other required permits, approvals, and conditions of site plan approval.**

(1). Other required permit and approvals. The granting of site plan approval under this ordinance does not relieve the applicant of the responsibility to obtain any other permits or approvals required by local, state or federal regulations prior to commencing any activity or use described in 125-58. Such other required permits or approvals may include but are not limited to approvals from the Maine Department of Environmental Protection, approvals from the United States Army Corps of Engineers, subsurface wastewater disposal permits, sewer connection permits, approvals from the Maine Department of Transportation, and others.

The fact that the applicant may have obtained or been granted such permits or approvals prior to site plan review may be considered by the Planning Board as evidence as to the plan's compliance with applicable review standards but shall not be deemed conclusive evidence as to compliance.

M. **Formal record of meetings.** The Planning Board shall keep a record of each public proceeding for which notice is required. At a minimum, the record will include the date, time, and place of the meeting, the members present or absent, and all motions and votes taken, including individual member votes if a roll call is conducted.

N. Failure to act. Failure of the Planning Board or of the Planning Director to act within any of the time requirements set forth herein shall constitute a denial of the application.

§ 125-64. Waiver of submissions and modifications of standards

A. Waivers of Submission. The Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in § 125-66 provided such waiver will not unduly restrict the review process. The Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

B. Modification of standards.

The Planning Board may, only upon the written request of an applicant specifically stating the reasons therefor, modify the site plan review standards when necessary to protect the public health, safety, or welfare or to address particular site characteristics. In no event shall the Planning Board grant a modification that has the effect of altering or nullifying the purpose or intent of municipal zoning, the Comprehensive Plan, or Article III of this chapter. In granting modifications under this section, the Planning Board may impose performance conditions reasonably necessary to promote the purposes, goals and objectives of the Land Use Ordinance and the Comprehensive Plan.

§ 125-69 Standards for particular uses, structures, or activities

A. Planned Unit Development - Outlying Area (PUD-O).

(3) PUD-O Process and requirements.

- (a) The PUD-O is a type of subdivision and is therefore subject to process shall include the requirements of a subdivision approval process as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.
- (b) In addition to Subsection M(3)(a) above, and as part of the sketch plan filing, Applicants for a PUD-O shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, and district boundaries. The site analysis shall identify the context of the neighborhood surrounding the project area by showing graphically the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity the of use (e.g., scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.

- (c) ~~At the sketch plan submission, t~~The Planning Board or the Planning Director may require the applicant to prepare a plan to show a possible layout for a conventional subdivision application. This plan may be used by the Planning Board to determine base development density.
- (d) ~~Prior to submitting an application for a PUD-O, and after the submission of the sketch plan, the Planning Department will hold a neighborhood meeting. Abutters within 600 feet of the application parcel shall receive notice of this meeting.~~

S. Planned Unit Development - Village (PUD-V).

(3) PUD-V Process and requirements

- (a) The PUD-V is a type of subdivision and is therefore subject to process shall include the requirements of a subdivision approval process as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.
- (b) ~~In addition to Subsection S(3)(a) above, a~~Applicants for a PUD-V shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, and district boundaries. The site analysis shall identify context of the neighborhood surrounding the project area by showing graphically the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity of use (e.g., scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
- (c) The Planning Board or the Planning Director may require the applicant to prepare a plan to show a possible layout for a conventional subdivision application. This plan may be used by the Planning Board to determine base development density.

Article VI. Subdivision Review <u>Reserved.</u>
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~~§ 125-70. Applicability of site plan provisions.~~

~~Except as expressly modified herein, all provisions of Article V, including but not limited to review procedure, fees, submission requirements and standards, shall govern the review of proposed subdivisions in the Town of Bar Harbor and all references therein to site plans shall be deemed to include subdivision plans.~~

~~§ 125-71. Prohibitions.~~

~~A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a subdivision plan has been approved by the Board in accordance with this article.~~

- B. ~~No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.~~
- C. ~~Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which requires a subdivision plan approved as provided in this article and recorded in the Registry of Deeds. Construction of temporary accessways with a maximum traveled width of 12 feet, other site work or field investigations for the sole purpose of obtaining requisite site information (including, but not limited to mineral explorations and drilling of test wells) delineated in § 125-66 for application to the Planning Board shall not be considered development activity. The Code Enforcement Officer, through the issuance of a building permit, shall approve said accessways that meet the requirement and intent of this allowance. No work on or construction of said accessways shall commence prior to the Planning Board's review of a sketch plan for the site.~~

~~§ 125-72. Preapplication sketch plan.~~

- A. ~~Contents. Prior to requesting a review of a proposed subdivision plan and pursuing the procedure set forth in Article V, an applicant shall submit a preapplication sketch which shall show, in simple sketch form, the proposed layout of the streets, lots and other features in relation to existing conditions. The sketch plan, which may be a freehand penciled sketch describing or outlining the existing conditions of the site and showing the proposed development, shall be superimposed on or accompanied by a copy of the Assessor's map of the site and shall be accompanied by:

 - (1) ~~A copy of that portion of a USGS topographic map encompassing the site, showing an outline of the proposed subdivision;~~
 - (2) ~~Any written request for the waiver of submissions that the applicant intends to submit pursuant to § 125-63;~~
 - (3) ~~An outline of data on existing covenants, medium intensity soil survey and soil interpretation sheets, and available community facilities and utilities, and by information describing the subdivision proposal such as number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, proposed protective covenants, and proposed utilities and street improvements; and~~
 - (4) ~~The names and addresses of all property owners within 300 feet of the property being subdivided.~~~~
- B. ~~Fee. Each preapplication sketch plan shall be accompanied by an administrative fee and a notice fee, which fees shall, from time to time, be set by the Bar Harbor Town Council.~~
- C. ~~Time. A preapplication sketch plan, together with supporting documentation, shall be submitted to the Planning Department at least 15 days prior to the Planning Board meeting at which the applicant wishes to have the sketch plan reviewed by the Planning Board. The Planning Board shall review a sketch plan within 40 days following its submission to the Planning Department.~~
- D. ~~Form. A preapplication sketch and supporting documentation, together with a form provided by the Planning Department, shall be submitted in the form and quantity described in § 125-61B, except that each submission shall be conspicuously labeled "Sketch Plan Exhibit 1," "Sketch Plan Exhibit 2," and so on, in consecutive fashion.~~

~~E. Review of sketch plan. At the time of its review of a preapplication sketch plan, the Planning Board shall entertain brief public comment on the proposal for the limited purpose of informing the applicant of the nature of any public concerns about the project so that such concerns may be considered by the applicant in preparing his/her application.~~

~~(1) Upon its review of a preapplication sketch plan, the Planning Board shall:~~

~~(a) Set a date for a site inspection by a member or members of the Board within 30 days;~~

~~(b) Make specific suggestions to be incorporated by the applicant in subsequent submissions;~~

~~(c) Act on the applicant's request for submission waivers, if any;~~

~~(d) Determine the need to hold a neighborhood meeting in accordance with § 125-74A.~~

~~(2) The Planning Board shall inform the applicant of the foregoing within 10 business days of its review of a preapplication sketch plan.~~

~~F. Rights not vested. The submission or review of or public comments about a preapplication sketch plan or the conduct of a site inspection shall not be construed to be a substantive review of the proposed subdivision as defined by 1 M.R.S.A. § 302. No application for subdivision review shall be deemed pending until the Planning Board has determined the subdivision application to be complete.~~

~~§ 125-73. Site inspection.~~

~~2. Flagging. Prior to the site inspection the applicant shall place flagging along the center lines of any proposed streets, at the approximate intersections of street center lines and at all corners of proposed lots. Failure of the applicant to place such flagging in a timely fashion shall delay a scheduled site inspection.~~

~~3. Public proceeding. A site inspection shall constitute a public proceeding as defined by 1 M.R.S.A. § 402(2). Planning Board members may make inquiries of the owner or developer to develop a better understanding of the site as well as to provide comments on the proposed development.~~

~~§ 125-74. Review of subdivision application. [Amended 6-13-2006³]~~

~~C. The Planning Department will hold a neighborhood meeting upon a finding by the Planning Board that one is necessary. The neighborhood meeting will be held after the submission of the sketch plan and before the filing of the major site plan review application for subdivision. Abutters within 300 feet of the application parcel shall receive notice of this meeting.~~

~~D. Deadline. Within six months of the site inspection, the applicant shall submit to the Planning Department, pursuant to § 125-61B(1), an application for approval of a subdivision, provided that said time shall be extended upon the written request of the applicant if necessary to allow the applicant sufficient time to obtain any permits required by § 125-66E. The review procedure for subdivisions shall follow the procedure set forth in Article V, including but not limited to application completeness review pursuant to § 125-61E and a public hearing pursuant to § 125-61F, except that the public hearing shall take place within 30 days of the application being deemed~~

~~complete. In order to obtain such an extension the applicant shall provide proof that he/she has initiated and is actively pursuing any necessary permit process. If the applicant fails to comply with the time requirements of this subsection, the Planning Board may, without prejudice, refuse to act on the application and require the resubmission of a preapplication sketch plan.~~

~~E. Form. The submissions presented as part of a subdivision application shall be submitted in the form and quantity described in § 125-61B, except that each submission shall be conspicuously labeled "Subdivision Exhibit 1," "Subdivision Exhibit 2" and so on in consecutive fashion, and, where necessary or unless otherwise indicated, maps may be drawn at a scale of up to 100 feet to the inch.~~

~~F. Application. An application for the review of a subdivision shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board at the sketch plan~~

~~review, § 125-72, and shall contain all applicable submission requirements of § 125-66, except those that have been waived.~~

~~§ 125-75. Approval and recording. [Amended 5-2-2005; 6-13-2006⁴]~~

~~K. Upon the approval of a subdivision plan or a revised subdivision plan, the Planning Board shall sign and date both reproducible copies of the final plan, one of which shall be retained by the Planning Department and one of which shall be returned to the applicant for recording in the Hancock County Registry of Deeds. The applicant shall submit both copies of the final plan within 45 days of the final approval by the Planning Board or, in the case of minor subdivision review, by the Planning Department, for signature by the Planning Board. Within 90 days of the date when a plan is signed by the Planning Board, the applicant shall provide the Planning Department with proof of recording or the plan shall become null and void.~~

~~L. The Planning Board shall not accept or approve final plans that are not sealed and signed by the professional land surveyor.~~

~~§ 125-76. Revision of subdivision. ⁵[Added 5-2-2005]~~

~~[4] Subject to the limitations of this section, all revisions of a subdivision plan previously approved by the Bar Harbor Planning Board, regardless of the date of approval, except those eligible for minor site plan review under § 125-58B(1), shall be reviewed as a new subdivision.~~

~~[5] Application. An application for the revision of an approved subdivision plan shall comply with the requirements of applications for subdivision as set forth in Article VI, §§ 125-70 through 125-75 inclusive, except that all maps, plans and plats shall bear the words "REVISED PLAN." At the written request of the applicant, the Planning Board may limit the required application submissions to that information necessary to determine whether the proposed revisions will meet the applicable standards and is suitable for recording in the Hancock County Registry of Deeds.~~

~~[6] Scope of review. The scope of the Planning Board's review in considering a proposed revision to a previously approved subdivision shall be limited to those portions of the plan that have been changed.~~

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~~[End of ordinance]~~