

The University of Maine

DigitalCommons@UMaine

Maine Town Documents

Maine Government Documents

2019

Town of Trenton Maine Ordinances

Trenton, Me

Follow this and additional works at: <https://digitalcommons.library.umaine.edu/towndocs>

This Ordinances is brought to you for free and open access by DigitalCommons@UMaine. It has been accepted for inclusion in Maine Town Documents by an authorized administrator of DigitalCommons@UMaine. For more information, please contact um.library.technical.services@maine.edu.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF TRENTON, MAINE

ENACTED:

Date

EFFECTIVE:

Date

CERTIFIED BY:

Signature

CERTIFIED BY:

Print Name

Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

CONTENTS

ARTICLE	PAGE
I. PURPOSE AND ESTABLISHMENT	2
II. PERMIT REQUIRED.....	2
III. APPLICATION FOR PERMIT	2
IV. APPLICATION FEE AND EXPERT'S FEE	4
V. REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS	4
VI. DEVELOPMENT STANDARDS	6
VII. CONDITIONAL USE REVIEW	13
VIII. CERTIFICATE OF COMPLIANCE.....	14
IX. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS	14
X. APPEALS AND VARIANCES	15
XI. ENFORCEMENT AND PENALTIES	17
XII. VALIDITY AND SEVERABILITY	18
XIII. CONFLICT WITH OTHER ORDINANCES	18
XIV. DEFINITIONS.....	18
XV. ABROGATION.....	23

ARTICLE I – PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Trenton Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Trenton Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Trenton Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Trenton has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352, 4401-4407, and Title 38 MRSA, Section 440.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Trenton having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Trenton Maine.

The areas of special flood hazard, Zones AE and VE for the Town of Trenton Hancock County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Hancock County, Maine," dated July 20, 2016 with accompanying "Flood Insurance Rate Map" dated July 20, 2016 with panels: 769D, 788D, 952D, 954D, 956D, 957D, 958D, 959D, 962D, 964D, 966D, 967D, 968D, 969D, 976D, 978D, 979D, 986D, and 988D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Hancock County, Maine," are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIV), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer except as provided in Article VII. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Trenton Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;

- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

[Items H-K.3. apply only to new construction and substantial improvements.]

H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD), or to a locally established datum in Zone A only, of the:

1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zones AE and VE from data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265), including information obtained pursuant to Article VI.K. and IX.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
2. highest and lowest grades at the site adjacent to the walls of the proposed building;
3. lowest floor, including basement; and whether or not such structures contain a basement; and,
4. level, in the case of non-residential structures only, to which the structure will be floodproofed;

- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a V-Zone Certificate to verify that the construction in coastal high hazard areas, Zone VE, will meet the criteria of Article VI.P.; and other applicable standards in Article VI;
 - 3. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 4. a certified statement that bridges will meet the standards of Article VI.M.;
 - 5. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$25.00 for all minor development (as defined) and \$50.00 for all new construction or substantial improvements (as defined) shall be paid to the Town of Trenton and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 - 1. the base flood and floodway data contained in the "Flood Insurance Study - Hancock County, Maine," as described in Article I.;
 - 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article IX.D., in order to administer Article VI of this Ordinance; and,
 - 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits, based on the type of development:
 - 1. A two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, H, or P. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,

2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a., b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

For development that requires review and approval as a Conditional Use, as provided for in this Ordinance, the Flood Hazard Development Permit Application shall be acted upon by the Planning Board as required in Article VII.

G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article X of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VIII of this Ordinance.

ARTICLE VI - DEVELOPMENT STANDARDS

All developments in areas of special flood hazard shall meet the following applicable standards:

A. All Development - All development shall:

1. be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. use construction materials that are resistant to flood damage;
3. use construction methods and practices that will minimize flood damage; and
4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during flooding conditions.

B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- C. **Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. **On Site Waste Disposal Systems** - On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. **Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. **Residential** - New construction or substantial improvement of any residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one-foot above the base flood elevation.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D.
 3. Zone VE shall meet the requirements of Article VI.P.
- G. **Non Residential** - New construction or substantial improvement of any non-residential structure located within:
1. Zone AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B.; or Article IX.D., or

- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

3. Zone VE shall meet the requirements of Article VI.P.

H. Manufactured Homes - New or substantially improved manufactured homes located within:

1. Zone AE shall:

- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
- b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
- c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1) & (2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article IX.D.; and
- b. meet the anchoring requirements of Article VI.H.1.c.

3. Zone VE shall meet the requirements of Article VI.P.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zone AE shall either:

- a. be on the site for fewer than 180 consecutive days,

- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

2. Zone VE shall meet the requirements of either Article VI.I.1.a. and b., or Article VI.P.

J. **Accessory Structures** - Accessory Structures, as defined in Article XIV, located within Zone AE, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

- 1. have unfinished interiors and not be used for human habitation; ———
- 2. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
- 3. be located outside the floodway;
- 4. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
- 5. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

- 1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- 2. In Zones AE and A riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
 - a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

b. is consistent with the technical criteria contained in FEMA's guidelines and standards for flood risk analysis and mapping.

3. In Zones AE and A riverine areas, for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zone AE that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

1. Enclosed areas are not "basements" as defined in Article XIV;

2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:

a. be engineered and certified by a registered professional engineer or architect; or,

b. meet or exceed the following minimum criteria:

(1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;

(2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,

(3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and,

4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

M. Bridges - New construction or substantial improvement of any bridge in Zones AE and VE shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and

2. a registered professional engineer shall certify that:

- a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and
- b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

N. **Containment Walls** - New construction or substantial improvement of any containment wall located within:

1. Zones AE and VE shall:

- a. have the containment wall elevated to at least one foot above the base flood elevation;
- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
- c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
2. for commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.

P. **Coastal Floodplains** -

1. All new construction located within Zones AE and VE shall be located landward of the reach of mean high tide except as provided in Article VI.P.6.
2. New construction or substantial improvement of any structure located within Zone VE shall:
 - a. be elevated on posts or columns such that:
 - (1) the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to one foot above the base flood elevation;

(2) the pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and,

(3) water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state and local building standards.

b. have the space below the lowest floor:

(1) free of obstructions; or,

(2) constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or,

(3) constructed to enclose less than 300 square feet of area with non-supporting breakaway walls that have a design safe loading resistance of not less than 10 or more than 20 pounds per square foot.

c. require a registered professional engineer or architect to:

(1) develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55); and,

(2) certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of Article VI.P.2.

3. The use of fill for structural support in Zone VE is prohibited.

4. Human alteration of sand dunes within Zone VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.

5. The area below the lowest floor shall be used solely for parking vehicles, building access, and storage.

6. Conditional Use - Lobster sheds and fishing sheds may be located seaward of mean high tide and shall be exempt from the elevation requirement in Article VI.G. only if permitted as a Conditional Use following review and approval by the Planning Board, as provided in Article VII, and if all the following requirements and those of Article VI.A., VI.K., and VI.L. are met:

a. The conditional use shall be limited to low value structures such as metal or wood sheds 200 square feet or less and shall not exceed more than one story.

- b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse, and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
- c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
- d. The structure shall have unfinished interiors and shall not be used for human habitation.
- e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to one foot above the base flood elevation.
- f. All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the Special Flood Hazard Area.

ARTICLE VII - CONDITIONAL USE REVIEW

The Planning Board shall hear and decide upon applications for conditional uses provided for in this Ordinance. The Planning Board shall hear and approve, approve with conditions, or disapprove all applications for conditional uses. An applicant informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board.

A. Review Procedure for a Conditional Use Flood Hazard Development Permit

- 1. The Flood Hazard Development Permit Application with additional information attached addressing how each of the conditional use criteria specified in the Ordinance will be satisfied, may serve as the permit application for the Conditional Use Permit.
- 2. Before deciding any application, the Planning Board shall hold a public hearing on the application within thirty days of their receipt of the application.
- 3. If the Planning Board finds that the application satisfies all relevant requirements of the ordinance, the Planning Board must approve the application or approve with conditions within 45 days of the date of the public hearing.
- 4. A Conditional Use Permit issued under the provisions of this Ordinance shall expire if the work or change involved is not commenced within 180 days of the issuance of the permit by the Planning Board.
- 5. The applicant shall be notified by the Planning Board in writing over the signature of the Chairman of the Planning Board that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

B. Expansion of Conditional Uses

1. No existing building or use of premises may be expanded or enlarged without a permit issued under this section if that building or use was established or constructed under a previously issued Conditional Use Permit or if it is a building or use which would require a Conditional Use Permit if being newly-established or constructed under this Ordinance.

ARTICLE VIII - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer:
 1. an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, H, or P and,
 2. for structures in Zone VE, certification by a registered professional engineer or architect that the design and methods of construction used are in compliance with Article VI.P.2.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 1. review the required certificate(s) and the applicant's written notification; and,
 2. upon determination that the development conforms to the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE IX - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law, local ordinances or regulations, and all projects on 5 or more disturbed acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided in order to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE X - APPEALS AND VARIANCES

The Board of Appeals of the Town of Trenton may, upon written application of an aggrieved party, hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the administration or enforcement of the provisions of this Ordinance.

The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
 - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
 - c. that the granting of a variance will not alter the essential character of the locality; and,

d. that the hardship is not the result of action taken by the applicant or a prior owner.

C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as is deemed necessary.

D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. other criteria of Article X and Article VI.K. are met; and,
2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:

1. the development meets the criteria of Article X, paragraphs A. through D. above; and,
2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

F. Any applicant who meets the criteria of Article X, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:

1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
2. such construction below the base flood level increases risks to life and property; and,
3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

G. Appeal Procedure for Administrative and Variance Appeals

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.

2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the v to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE XI - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to Title 30-A MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to other actions, the Code Enforcement Officer may, upon identifying a violation, submit a declaration to the Administrator of the Federal Insurance Administration requesting a flood insurance denial. The valid declaration shall consist of:
 1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
 2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;
 3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
 4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
 5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

ARTICLE XII - VALIDITY AND SEVERABILITY

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

ARTICLE XIII - CONFLICT WITH OTHER ORDINANCES

This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Ordinance shall control.

ARTICLE XIV - DEFINITIONS

Unless specifically defined below, words and phrases used in this Ordinance shall have the same meaning as they have at common law, and to give this Ordinance its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary.

Accessory Structure - a small detached structure that is incidental and subordinate to the principal structure.

Adjacent Grade - the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Area of Special Flood Hazard - land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Article I of this Ordinance.

Base Flood - a flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement - area of a building that includes a floor that is subgrade (below ground level) on all sides.

Breakaway Wall - a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Building - see Structure.

Certificate of Compliance - a document signed by the Code Enforcement Officer stating that a structure is in compliance with all of the provisions of this Ordinance.

Code Enforcement Officer - a person certified under Title 30-A MRSA, Section 4451 (including exceptions in Section 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws.

Conditional Use - a use that, because of its potential impact on surrounding areas and structures, is permitted only upon review and approval by the Planning Board pursuant to Article VII.

Containment Wall – wall used to convey or direct storm water or sanitary water from the initial source to the final destination.

Development – a manmade change to improved or unimproved real estate. This includes, but is not limited to, buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials.

Digital Flood Insurance Rate Map (FIRM) – see **Flood Insurance Rate Map**

Elevated Building - a non-basement building that is:

- a. built, in the case of a building in Zone AE, so that the top of the elevated floor, or in the case of a building in Zone VE, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored to not impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zone AE, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L. In the case of Zone VE, **Elevated Building** also includes a building otherwise meeting the definition of elevated building, even though the lower area is enclosed by means of breakaway walls, if the breakaway walls meet the standards of Article VI.P.2.b.(3).

Elevation Certificate - an official form (FEMA Form 81-31, as amended) that:

- a. is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and,
- b. is required for purchasing flood insurance.

Flood or Flooding

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.
- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or

by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

Flood Elevation Study - an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

Flood Insurance Rate Map (FIRM) - an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study - see **Flood Elevation Study**.

Floodplain or Floodprone Area - land area susceptible to being inundated by water from any source (see flooding).

Floodplain Management - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

Floodplain Management Regulations - zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing - any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and contents.

Floodway - see **Regulatory Floodway**.

Floodway Encroachment Lines - the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, which could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - 1. By an approved state program as determined by the Secretary of the Interior, or
 - 2. Directly by the Secretary of the Interior in states without approved programs.

Locally Established Datum - for purposes of this ordinance, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD), North American Vertical Datum (NAVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.

Lowest Floor - the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI.L. of this Ordinance.

Manufactured Home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term manufactured home also includes park trailers; travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - when related to the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, North American Vertical Datum (NAVD) or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Minor Development - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

National Geodetic Vertical Datum (NGVD) - the national vertical datum, a standard established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD is based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - structures for which the "start of construction" commenced on or after the effective date of the initial floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

North American Vertical Datum (NAVD)- means the national datum whose standard was established in 1988, which is the new vertical datum used by the National Flood Insurance Program (NFIP) for all new Flood Insurance Rate Maps. NAVD is based upon vertical datum used by other North American countries such as Canada and Mexico and was established to replace NGVD because of constant movement of the earth's crust, glacial rebound, and subsidence and the increasing use of satellite technology.

100-year flood - see **Base Flood**.

Recreational Vehicle - a vehicle that is:

- a. built on a single chassis;
- b. 400 square feet or less when measured at the largest horizontal projection, not including slideouts;
- c. designed to be self-propelled or permanently towable by a motor vehicle; and
- d. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway -

- a. the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Flood Insurance Rate Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

Riverine - relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area - see **Area of Special Flood Hazard**.

Start of Construction - the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or

modification of any construction element, whether or not that alteration affects the external dimensions of the building.

Structure - means, for floodplain management purposes, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.

Substantial Damage - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a Historic Structure, provided that the alteration will not preclude the structure's continued designation as a historic structure, and a variance is obtained from the Board of Appeals.

Variance - means a grant of relief by a community from the terms of a floodplain management regulation.

Violation - means the failure of a structure or development to comply with a community's floodplain management regulations.

ARTICLE XV - ABROGATION

This ordinance repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

60.3 (e) Rev. 01/16
Prepared by DACF/JP

**FRENCHMAN BAY
REGIONAL SHELLFISH CONSERVATION
ORDINANCE**

**For the Communities of
Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton**

Mission Statement: These communities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

Management Partnership Team

**Frenchman Bay Regional Shellfish Conservation Committee
&
Frenchman Bay Regional Shellfish Municipal Joint Board**

FRENCHMAN BAY REGIONAL SHELLFISH CONSERVATION ORDINANCE

Communities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton

Mission Statement: These communities shall act collaboratively as stewards to preserve, protect, manage and enhance the shellfish resources and ecological well being of the Greater Frenchman Bay Region and to insure a sustainable harvest of shellfish and opportunity for those who make their living on the tide.

1. **Authority:** This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.
2. **Purpose:** To establish a shellfish conservation program for the participating communities, which shall insure the protection and optimum utilization of shellfish resources within its limits. These goals shall be achieved by means, which may include:
 - A. Licensing.
 - B. Limiting the number of shellfish harvesters.
 - C. Restricting the time and area where digging is permitted.
 - D. Limiting the minimum size of clams taken.
 - E. Limiting the amount of shellfish taken daily by a harvester.

3. **Administration**

3.1 The Regional Shellfish Conservation Committee: The Regional Shellfish Management Program for the participating communities shall be administered jointly by the Frenchman Bay Regional Shellfish Municipal Joint Board and the Frenchman Bay Regional Shellfish Conservation Committee. The Conservation Committee shall consist of one member and one alternate of each participating town. Committee Members shall be commercial harvesters licensed under this Ordinance if they are available and willing to serve and shall be appointed by the municipal officers of the participating communities and in accordance with the procedures outlined in this document for terms of up to three (3) years, except the initial appointment which shall be for 1, 2 or 3 years. A quorum shall consist of a majority of the members.

A. Selection of Regional Shellfish Conservation Committee Members: Selectmen/Council members of each of the participating communities shall appoint Regional Shellfish Conservation Committee members according to their own policies and procedures.

B. Regional Shellfish Conservation Committee's Responsibilities shall include:

i. Submitting to the Municipal Joint Board by January 2nd proposals for the expenditure of funds for the purpose of shellfish management.

ii. Keeping this Ordinance under review and making recommendations for its amendments.

iii. Recommending management actions to the Municipal Joint Board in conjunction with the Area Biologist of the Department of Marine Resources. Such actions may include, but are not limited to, re-seeding of defined shellfish flats, establishing conservation closures, shoreline cleanup, and limiting and/or expanding harvesting activities.

iv. Recommending to the Municipal Joint Board enforcement actions for the protection of the resource.

v. Submitting an annual report to the participating communities and the Department of Marine Resources covering the aforementioned topics and other Committee activities by January 2nd.

vi. Assist in identifying possible sources of pollution harmful to the intertidal habitat and the shellfish resources.

vii. By January 2nd of each year submit an Annual Shellfish Management Plan to the Municipal Joint Board for their approval and the approval of the Department of Marine Resources. The plan shall outline in detail the number of licenses to be issued annually, license fees, the amount of shellfish allowed to be harvested per tide, restrictions on the times and days harvesting shall be allowed, and other relevant resource management tools. The plan shall be submitted to the Commissioner of Marine Resources for approval prior to January 2nd of each year.

viii. By January 2nd of each year submit an Annual License Allocation Procedure Plan for approval by the Municipal Joint Board. This plan shall outline in detail how licenses are to be allocated on an annual basis and shall be consistent with 12 M.R.S.A Section 6671 (3-A)(C). After receiving approval for license allocations from the Commissioner of Marine Resources, the Regional Shellfish Conservation Committee shall notify the Administrative Community, in writing, the number of shellfish licenses to be issued.

C. Attendance: Regional Shellfish Conservation Committee members shall make every effort to regularly attend Committee meetings. Any Committee member who misses more than two consecutive unexcused absences shall lose their seat on the Committee.

D. Convictions: Anyone convicted of violating this ordinance shall be removed from the committee.

3.2. MUNICIPAL JOINT BOARD: Each of the participating communities shall appoint one municipal officer as a member of a Joint Board to act as the town's representative for all issues concerning this agreement. The person so appointed shall serve at the pleasure of the body that made the appointment.

A. Meetings: The Chairman of the Joint Board shall be elected at the first meeting of each calendar year by the members of the Joint Board. A quorum shall consist of a majority of the members of the Board. Notice of all meetings of the Joint Board shall be given to each member of the Board and the Chairman of the Regional Shellfish Conservation Committee, shall be published in accordance with each town's policies, and shall be open to the public. Minutes shall be recorded and made available for public review.

B. Powers: The Joint Board is authorized to approve the number of shellfish licenses to be issued, approve license fees, open and close the flats, set times when digging is allowed, set permitted quantities that may be harvested, and to take such actions as authorized by each of the participating community's Board of Selectmen/Council, and subject to the Department of Marine Resources approval as noted in Section 6, based upon the recommendations of the Regional Shellfish Conservation Committee. These actions shall be described in an Annual Shellfish Management Plan submitted by the Regional Shellfish Conservation Committee. Unanimous recommendations of the Regional Shellfish Conservation Committee regarding the management of the shellfish resources (i.e., those issues related to the sustainable harvest of the resource and not related to personnel, fiscal expenditures or legal matters) shall be approved by the Joint Board unless a unanimous vote of the Joint Board decides otherwise.

4. Definitions

- A. Resident:** The term "resident" refers to a person being a Maine resident who has proof of being domiciled in at least one of the participating communities continuously for a minimum of one year prior to the time his claim of such residence is made and/or whom has paid real estate taxes in at least one of these participating communities continuously for at least five years. In order to determine resident eligibility new residents shall provide two forms of proof of residency from the list below. At least one shall be from Section 3 in chart below. All licensed harvesters will provide proof of residency on an annual basis.

Section 1	Section 2	Section 3
<p>*Copy of deed AND record of most recent mortgage payment</p> <p>*Copy of Lease AND record of most recent legal affidavit from landlord affirming tenancy.</p> <p>*Legal affidavit from landlord affirming tenancy AND record of most recent rent payment.</p>	<p>A utility bill or other work order dated within the past 60 days including:</p> <ul style="list-style-type: none"> *Gas Bill *Oil Bill *Electric Bill *Telephone Bill *Cable or Satellite Bill <p>Dated within the past year:</p> <ul style="list-style-type: none"> *W-2 Form *Excise (vehicle) tax bill *Property tax bill <p>*Dated within the past 60 days:</p> <ul style="list-style-type: none"> *Letter from approved Government agency *Payroll Stub *Bank or credit card statement 	<p>*Valid Drivers License displaying physical address</p> <p>*Valid Maine photo ID card displaying physical address</p> <p>*Valid Passport displaying physical address</p> <p>*Current vehicle registration displaying physical address</p>

- B. Nonresident:** The term "nonresident" means anyone not qualified as a resident under this ordinance.
- C. Shellfish, Clams and Intertidal Shellfish Resources:** When used in the context of this ordinance the words "shellfish", "clams", and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*), quahogs (*Mercenaria mercenaria*), razor clams (*Ensis directus*), hen clams (*Spisula solidissima*), eastern oysters (*Crassostrea virginica*) and European Oysters (*Ostrea edulis*).
- D. Municipality:** Refers to the Communities of Ellsworth, Franklin, Hancock, Lamoine, Sorrento, Sullivan and Trenton, Maine.
- E. Administrative Municipality:** The community that administers this Ordinance and the directives of the Municipal Joint Board
- F. Annual License Allocation Procedure Plan:** A plan written by the Regional Shellfish Conservation Committee and submitted to the Municipal Joint Board for approval. This plan shall outline in detail how licenses are to be allocated on an annual basis and shall establish priority status for the allocation of licenses as referred to in Section 5.3.
- G. Annual Shellfish Management Plan:** A detailed shellfish resource management plan written on an annual basis by the Regional Shellfish Conservation Committee and submitted to, and approved by, the Municipal Joint Board for submission to, and approval by, the Maine

Department of Marine Resources. Said plan shall define actions to be taken regarding the number of licenses to be issued, re-seeding activities, conservation closures, limits on allowable harvest and harvesting days and times, and other measures taken to ensure a sustainable harvest of the resource.

H. Conservation Time: Those measures and activities approved by the Regional Shellfish Conservation Committee for the purposes of resource enhancement and the support of the Frenchman Bay Regional Shellfish Management Program. Said activities shall be outlined in the Annual Shellfish Management Plan. Conservation time must be completed prior to the issuance of a municipal commercial shellfish license in accordance with the Annual License Allocation Plan and Conservation Regulations.

5. LICENSING:

A Frenchman Bay Regional Shellfish License is required to harvest shellfish in the jurisdiction of this Ordinance. It is unlawful for any person to dig or take shellfish from the shores and flats of the participating communities for the purpose of selling the clams without having a current commercial license issued by a participating town as provided by this Ordinance. Additionally, a commercial digger must have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources prior to harvesting clams for commercial purposes. It shall be unlawful for any individual whose state license or right to harvest has been suspended by the state to harvest or possess shellfish without proof of purchase. Also, if such individual currently holds a municipal license such license shall be suspended for the same period of time. Restrictions on licenses regarding the harvest of shellfish as defined in this ordinance shall be outlined in the Annual Shellfish Management Plan proposed by the Regional Shellfish Conservation Committee.

Start Up Licensing and Requirements: For the first year of this ordinance only, license sales shall take place and be effective beginning June 21st, 2010. The lottery for non resident commercial licenses will be held one week after resident commercial licenses go on sale. Conservation requirements shall be waived for the first year purchase only. Licensed harvesters shall be required to participate in conservation work during the 2010 season to be eligible for the 2011 commercial License. At least half the required 12 hours of conservation time shall be completed by 1 December 2010.

5.1 Designation, Scope and Qualifications:

A. Resident Commercial Shellfish License: The license is available to residents of a participating municipality and State of Maine Resident real estate tax payers of at least one of the participating municipalities and entitles the holder to dig and take any amount of shellfish from the shores and flats of these municipalities and reciprocating municipalities.

B. Nonresident Commercial Shellfish License: The license is available to nonresidents of the region and entitles the holder to dig and take any amount of shellfish from the shores and flats of this region.

C. Resident Junior Commercial Shellfish License: This license is available to residents of the municipality who are 16 years or less at the time of issuance of the license. A resident junior license shall be half the cost of, and require only half of the conservation time necessary for, a regular commercial resident license.

D. Nonresident Junior Commercial Shellfish License: This license is available to nonresidents who are 16 years or less at the time of the issuance of the license. A nonresident

junior license shall be half the cost of, and require only half of the conservation time necessary for, a regular commercial nonresident license.

E. Commercial Quahog License: The license is available to residents of a participating municipality or non residents and entitles the holder to dig and take any amount of quahogs from the shores and flats of these municipalities and reciprocating municipalities.

F. Resident Senior Commercial License: This license is available to resident seniors over the age of 65. Fees for this license shall be half the cost of, and require only half of the conservation time necessary for, a regular commercial resident license.

G. Non-Resident Senior Commercial License: This license is available to nonresident seniors over the age of 65. Fees for this license shall be half the cost of, and require only half of the conservation time necessary for, a regular commercial non-resident license.

H. Residential Family/Individual Recreational Shellfish License: The license is available to Residents and Maine resident real estate taxpayers of participating municipalities who do not hold a valid Maine State Commercial Shellfish License and entitles the family to dig and take no more than one peck of shellfish or 3 bushels of "hen" or "surf" clams in any one day for the use of himself and his family. Residents with an Aquaculture lease permits shall be exempt and eligible for a recreational license.

I. Nonresident Family/Individual Recreational Shellfish License: The license is available to any person not a resident of this region who does not hold a valid Maine State Commercial Shellfish License and entitles the family to dig and take not more than one peck of shellfish or 3 bushels of "hen" or "surf" clams in any one day for the use of himself and his family. Non residents with an Aquaculture Lease Permit shall be exempt and eligible for a recreational license.

J. License must be signed: The licensee must sign the license to make it valid. License must be in possession when engaged in harvesting. By signing the license the harvester acknowledges that they must submit to inspection by the Municipal Shellfish Warden.

5.2 Fees: A schedule of fees shall be available at the Town Offices of all participating communities. The fees for the licenses shall be determined annually by The Regional Shellfish Committee and Municipal Joint Board. Licensees shall submit fees, in full upon issuance of license. Fees received for shellfish licensing shall be used by the Administrative Municipality to support the Regional Shellfish Management Ordinance. Sale of recreational licenses shall be the responsibility of each participating town. Any and all fees and license sales information for recreational licenses shall be collected by the participating municipalities and sent to the Administrative Municipality quarterly, except for a \$1.00 agent fee per license that will be retained by the issuing municipality.

5.3 Application Procedure: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the Administrative Municipality. Notice of available commercial licenses shall be published in a trade or industry publication, or in a newspaper, or newspapers, or combination of newspapers with general circulation which the Municipal Joint Board consider effective in reaching person affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices of the participating communities until the period expires. Applications for commercial licenses must be received

at the Town Office of the Administrative Municipality as required by the Allocation Plan. No Shellfish licenses may be reserved and licenses cannot be transferred.

A. Contents of Application: The application must be in the form of an affidavit and must contain the applicant's name, current address, birth date, height, weight, signature and any additional information the municipality may require.

B. Misrepresentation: Any person who intentionally gives false information on a license application shall cause the application to be removed from consideration, if a license is issued as a result of the false information, said license to become invalid and void.

C. Address change: A person holding a commercial shellfish license under this ordinance shall notify the town clerk of the Administrative Town within ninety (90) days of address change outside of the participating municipalities.

5.4. License Allocation Procedures: License sales procedures shall be determined by the Shellfish Management Committee, approved by the Municipal Joint Board, and submitted to the Department of Marine Resources for their approval at least thirty (30) days prior to the licenses going on sale. Notice of the number of licenses to be issued and the procedure for application shall be defined by an Annual License Allocation Plan.

A. The Town Clerk of the Administrative Municipality shall issue licenses to those residents and non residents who have met the requirements of obtaining a commercial license. The Town Clerk shall issue licenses allocated starting April 1st or the next business day. A lottery for non resident commercial licenses will be held June 15th or the next business day.

B. Conservation time must be completed prior to the issuance of a municipal commercial shellfish licenses in accordance with the Annual License Allocation Plan and Annual Management Plan.

C. Any license holder convicted of any violation of this ordinance shall forfeit seniority. Those who have held commercial licenses uninterrupted, from the first year of the Ordinance shall maintain seniority.

Details explaining how licenses will be issued will be described in the Annual License Allocation Procedures Plan.

5.5 Limitation of Diggers: The number of commercial licenses may be limited and will be issued according to the Annual License Allocation Plan.

A. If it is determined that Limited Licenses are necessary the Administrative Community shall issue licenses to residents and nonresidents as allocated from April 1st or the first business day following and then for 90 days, after which licenses shall be sold without regard to residency on a first come first serve basis or lottery.

5.6 Open License Sales: When the Shellfish Conservation Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year;

A. The number of recreational licenses will not be limited. Recreational licenses shall be issued to residents or non residents without restriction.

5.7 License Expiration Date: Each license issued under authority of this ordinance expire June 30th of each year

5.8 Fee Waivers: Recreational shellfish license fees shall be waived for individuals 65 years or older and 12 years or younger.

6. Opening and Closing of Flats: The Shellfish Conservation Committee in conjunction with Municipal Joint Board, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon concurrence of the Department of Marine Resources Area Biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Shellfish Conservation Committee and Municipal Joint Board may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Joint Board and Shellfish Conservation Committee made after the hearing shall be based on findings of fact.

7. Minimum Legal Size of Soft Shell Clams: It is unlawful for any person to possess soft shell clams within the municipality which are less than two (2) inches in the longest diameter except as provided by Subsection 7.2 of this section.

7.1 Definitions:

A. Lot: The word "lot" as used in this ordinance means the total number of soft shell clams in any bulk pile. Where soft shell clams are in a box, barrel, or other container, the contents of each box, barrel, or other container constitutes a separate lot.

B. Possess: For the purpose of this section, "possess" means dig, take, harvest, ship, transport, hold, buy and sell retail and wholesale soft shell clam shell stock.

7.2 Tolerance: Any person may possess soft shell clams that are less than two inches if they comprise less than 10% of any lot. The tolerance shall be determined by count of not less than one peck nor more than four pecks taken at random from various parts of the lot or by a count of the entire lot if it contains less than one peck.

7.3 Penalty: Whoever violates any provision of this section shall be punished as provided by 12 M.R.S.A. Section 6681.

8. Penalty: A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10).

9. Effective Date: This ordinance, which has been approved by the Commissioner of Marine Resources, shall become effective after its adoption by the member municipalities provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.

10. Severability: If any section, subsection, sentence or part of this ordinance is for any reason held to be invalid or unconstitutional, such decisions shall not affect the validity of the remaining portions of this ordinance.

11. Repeal: Any ordinance regulating the harvesting or conservation of shellfish in the member communities and any provisions of any other town ordinance, which is inconsistent with this ordinance, is hereby repealed.

12. **Use of Fees and Fines, Funding:** Fees for shellfish licenses shall be set forth in the Annual Shellfish Management plan and shall accompany the application for the respective license. Fees and fines received shall be used for costs incurred in the enforcement and management of this ordinance.
- 12.1 **Non-lapse Provision:** Monies in the Municipal Shellfish Account shall not lapse at the end of the year but shall be carried over to the next year in that account.
- 12.2 **Funding:** The Municipal Shellfish Program shall be self-supporting as much as possible. Funds for operating the Program may be generated by license fees, fines, and financial support from the participating communities.
13. **VIOLATIONS, SUSPENSION OF LICENSES, AND FINES:**
Any person who violates this Ordinance or the policies adopted in the Annual Shellfish Management Plan shall be punished as provided by 12 M.R.S.A. Section 6671 and/or Section 6681. A licensee whose shellfish license has been suspended pursuant to this Ordinance may request return of their license only after the suspension period has expired. A suspended license is not to be returned until the fine is paid in accordance to the court's decree. The suspension of a commercial license shall begin following conviction. Any violation of this Ordinance and/or the Management Plan may result in a license suspension. All suspensions of licenses shall be authorized by the Municipal Joint Board. Any licensee whose license has been suspended pursuant to this Ordinance shall be entitled to a hearing before the Municipal Joint Board upon the filing of a written request for a hearing with the Town Clerk of the Administrative Town within thirty (30) days of the effective date of the suspension. Classifications of, and penalties for, violations are categorized as follows:
- 13.1 **Stopping for inspection:** A person shall produce their license on demand of any Certified Municipal Shellfish Conservation Warden in uniform and having "probable cause" to take such action. It is unlawful for the operator of a motor vehicle, boat, vessel, or conveyance or any kind, or any person:
- A. To deliberately fail or refuse to stop immediately upon request or signal of any Certified Municipal Shellfish Conservation Warden.
 - B. After the person has stopped, to fail to remain stopped until the said Warden has reached his immediate vicinity and makes known to the operator the reason for his request or signal.
 - C. To fail or refuse to stand by immediately for inspection on request of said Warden.
 - D. To throw or dump into any coastal waters or flats after having been requested or signaled to stop by a Certified Municipal Shellfish Conservation Warden any shellfish, or any pail, bag, hod or container before said Warden has inspected the same.
 - E. To attempt to elude, disobey, or assault any Certified Municipal Shellfish Conservation Warden.
- Penalties:** The first violation of Section 13.1 of this Ordinance shall result in a one (1) month suspension of the license and a three hundred dollar (\$300) fine. The second and subsequent violations of Section 13.1 of this Ordinance shall result in a twelve (12) month suspension of the license and a one thousand dollar (\$1000.00) fine.
- 13.2 **Management Plan:** It is unlawful for any person to violate the Annual Shellfish Management Plan.

Penalties: The first violation of the Annual Shellfish Management Plan shall result in a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1500.00). The second and subsequent violations of the Annual Shellfish Management Plan shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$ 1500.00).

13.3 Harvesting Clams in any Closed Area: It is unlawful for any person to harvest clams in a closed area.

Penalties: Any person found guilty of harvesting clams in a closed area shall be subject to a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1500.00). The second and subsequent violations of harvesting clams in a closed area shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$1500.00). The second violation of this section of this Ordinance shall result in a thirty (30) day license suspension and the third and subsequent violations shall result in a one hundred and twenty (120) day suspension of the person's license.

13.4 Minimum Legal Size of Shellfish: It is unlawful for any person to violate minimum shellfish size regulation set forth in this Ordinance:

Penalties: The first violation of Section 7 of this Ordinance shall result in a fine of not less than three hundred dollars (\$300.00) and not more than fifteen hundred dollars (\$1500.00). The second and subsequent violations of Section 7 of this Ordinance shall result in a fine of not less than five hundred dollars (\$500.00) and not more than fifteen hundred dollars (\$1500.00). If a person exceeds a fifty percent (50%) threshold of undersized clams as described in Section 7.2 at any time, their license shall be suspended for twelve (12) months and they shall receive a one thousand dollar (\$1000.00) fine

Penalties: If a person holding a commercial license uses it to aid and abet the illegal harvest of clams their license shall be suspended for three (3) months and they shall receive a one thousand dollar (\$1000) fine upon conviction. Any second and subsequent convictions under this section of the Ordinance shall result in a twelve (12) months suspension and a one thousand dollar (\$1000) fine. If a person holding a recreational license uses it to harvest clams commercially, their license shall be suspended for twelve (12) months and they shall receive a one thousand dollar (\$1000) fine upon conviction.

13.5 A regional licensee who has had their Maine State license suspended shall forfeit their regional license for the duration of the State suspension. Such a person in possession of shellfish must carry a receipt of purchase for said shellfish.

13.6 Harvesting without a license: It is unlawful to harvest shellfish without a license.

Penalties: Any person convicted of harvesting shellfish within any of the participating municipalities without a municipal license issued by authority of the Frenchman Bay Regional Shellfish Ordinance shall be ineligible to apply for any municipal shellfish license for a period of (3) three years from the date of the conviction.

13.7 Littering: A person shall not throw, drop, deposit, discard, dump or otherwise dispose of any litter in any manner or amount. Any person doing so shall be in violation of the municipal ordinance.

13.8 Trespass: A person may not access or cross private property or land without permission. A person trespassing having once been warned by property owner, their agent, shellfish warden, or any other law enforcement officer shall be in violation of the municipal ordinance.

13.9 Tagging: The holder of a commercial shellfish license shall identify shellstock the license holder has taken by means of a harvester tag. The tag shall be in accordance with Maine Department of Marine Resources (DMR) rules. Penalties shall be in accordance with DMR regulation.

13.10 Suspension: Any shellfish licensee having three convictions for a violation of this ordinance within a three year period shall have their shellfish license suspended for a period of thirty (30) days.

14. ENFORCEMENT: This ordinance shall be enforced by the Certified Municipal Shellfish Conservation Warden or any Municipal Shellfish Conservation Warden appointed by the Municipal Joint Board who, within one year of appointment, must be certified by the Commissioner of the Maine DMR.

15. AMENDMENTS

15.1 Initiation: A proposal for an amendment to this Ordinance may be initiated by the following:

A. A written petition submitted with the number of voters in the participating municipalities equal to at least ten percent of the voters in the last gubernatorial election;

B. A recommendation of the Regional Shellfish Conservation Committee; or

C. A recommendation of the Municipal Joint Board.

15.2 Procedure:

A. Any proposal for an amendment shall be made to the Municipal Joint Board, in writing, stating the specific changes requested. All such proposals shall be transmitted to the Regional Shellfish Conservation Committee for their review and recommendation.

B. Within thirty (30) days of receiving a properly initiated amendment, the Municipal Joint Board shall hold a public hearing on the proposal. Notice of the hearing shall be posted and advertised in a newspaper of general circulation within the participating communities at least seven (7) days prior to the hearing. The notice shall contain the time, date and place of the hearing and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the Town Clerk's office shall be adequate notice.

15.3 Adoption: This agreement may be amended after proposed changes have been reviewed by the Department of Marine Resources by a majority vote of the Municipal Joint Board and approved by the legislative bodies of the parties to the agreement (if they choose). Note: Ellsworth's charter requires Council action.

15.4 Statute Law Changes: Any changes to referenced Statute Laws in this Ordinance shall automatically update in this Ordinance upon enactment.

Town of Trenton

HARBOR MANAGEMENT ORDINANCE

ARTICLE 1. PREAMBLE

1.1 AUTHORITY

This ordinance is adopted under the authority granted in Titles 12, 17, 30 and 38 MRSA, as amended.

1.2 SHORT TITLE

This ordinance shall be known as and may be cited as the "Harbor Management Ordinance of the Town of Trenton".

1.3 PURPOSES

The purpose of this ordinance is to provide for the just and orderly operation and regulation of marine activities on and within all tidal waters of the Town of Trenton, Maine in order to insure safety to persons and property, to promote availability and use of a valuable public resource, and to create a fair and efficient framework for the administration of that resource.

1.4 JURISDICTION

The provisions of this ordinance shall govern all marine activities on and within the tidal waters of the Town of Trenton.

ARTICLE 2. HARBORS AND CHANNELS

The purpose of this article is to define the boundaries of the harbors (and other mooring zones) of the Town of Trenton and the channels within these harbors/zones.

A. Jordon River (ZONE A) : Mooring Area

Encompasses the Town of Trenton's tidal waters beginning on the northern water boundary of the Town of Trenton on the Jordon River, following such waters south on the Jordon River to its mouth at Mount Desert Narrows.

B. Airport Harbor (ZONE B) : Harbor Limits

Beginning at a point on the shore southwest of the Airport Boat Ramp (44degrees 26' 28.79" N Latitude by 68 degrees 21' 31.28" W Longitude) following an imaginary line southwesterly approximately 921 yards at 169.84 degrees to a point off the southern bounds of the Trap Rock shoal, then to and

following northeasterly the offshore Trenton channel boundary described in Article 2 section G below, to a point at the mouth of the Jordan river (44degrees 26' 6.67" N Latitude by 68 degrees 20' 59.98" W Longitude) then following an imaginary line southwest 204.36 degrees approximately 926 yards to a point on the shore NE of the Boat ramp, then following such shore southwesterly to the beginning point above. Within this harbor area, a 100 foot wide access channel will extend, from the shore side edge of the Airport Boat Ramp on bearing 106 degrees East to the main channel described in Article 2 section G below.

C. Goose Cove Harbor (ZONE C) : Harbor Limits

Beginning at the most southeasterly point on Haynes Point (44 degrees 25' 26.89" N Latitude by 68 degrees 22' 24.05" West Longitude) extending on an imaginary line in a southwesterly direction of 204.49 degrees 1.1 nautical miles to the most southeasterly point on Alley Island (44degrees 24' 23.54" N Latitude by 68 degrees 23' 4.31" W longitude), from that point following the shore of Alley Island northerly to and around the shore of Goose Cove to the beginning point on Haynes Point as described above. Within this harbor area, a 100 foot wide access channel, from the described channel in Article 2 section G below, will extend 1 nautical mile north on bearing 324.94 degrees to the head of Goose Cove.

D. Oak Point (ZONE D): Mooring Area

Beginning at the most southwesterly point of Alley Island and encompassing all the Town of Trenton's tidal waters further southwesterly to an imaginary line from the most westerly point on the shore of the Oak Point peninsula (44 degrees 24' 5.43" N Latitude by 68 degrees 26' 6.38" W Longitude running 179.83 degrees southerly to the Town of Trenton's tidal water boundary at the end of Oak Point.

E. Union River (ZONE E) : Mooring Area

Beginning at the imaginary line from the westerly point on the Oak Point peninsula enumerated in Article 2 section D above and encompassing all of the Town of Trenton's tidal waters running north up Union River Bay to the Northern end of the Town's water boundary on the Union River outside Mill Cove.

F. Mill Cove Harbor (Zone F) : Harbor Limits

Beginning at a point on the most northwesterly shore of the peninsula immediately south of Mill Cove (44degrees 28' 14.22" N Latitude by 68 degrees 25' 38.48" W Longitude) following an imaginary line approximately 289 yards on bearing 30.49 degrees to the northerly Tidal water boundary of the Town of Trenton and then along such boundary in a southeasterly direction to and around the shore of Mill Cove to the beginning point above.

G. Channel Limits

For the purpose of this ordinance the channel limits shall include a fairway three hundred fifty feet wide, more or less, always running parallel and adjacent shoreward to the Town lines forming the Towns' offshore boundaries along the Jordon River, the Airport Harbor, and the Goose Cove

Harbor (Zones as described in Article 2 sections A-C above.and then running westerly 300 yards offshore parallel to the Town's offshore boundaries along Alley Island and the Oak Point Peninsula and then northerly up the Union River Bay to the Northern boundary of the Town of Trenton's tidal waters beyond Mill Cove (Zones as Described in Article 2 sections D-F above) , and any other channels specifically designated in this ordinance in Article 2

ARTICLE 3. HARBOR MASTER

3.1 Appointment

The Selectmen shall appoint the Harbormaster annually for a one-year term Beginning July 1st and ending June 31st. In the event that an appointment is not made by July 1st, the incumbent shall remain in office until a successor is appointed and sworn.

3.2 Duties and Responsibilities

- A. The duties and responsibilities of this office are prescribed by Title **12**, **17** and **38** MRSA. The Harbor Master shall have full authority in the interpretation and enforcement of all regulations affecting the tidal waters of the Town of Trenton, Maine to the fullest extent permitted by law.
- B. Promote order in the harbors and assure safety and use of the harbors for the general public.
- C. Regulate approval and placement of all moorings according to the approved mooring plan.
- D. Assure that copies of all rules, regulations, ordinances, and other laws which pertain to the harbors, their use, and to vessels within the Town of Trenton, are available for inspection at the Town office.
- E. The Harbor Master shall be overseer of the Town's waterfront facilities including but not limited to moorings, floats, docks, and ramps and parking areas.
- F. Provides for the inspection of moorings, docks, floats, piers, and wharves, from time to time as his judgment may dictate, in the geographic areas covered by this ordinance and give notice to the owner of such structures which have fallen into a state of disrepair or which create a dangerous condition or may interfere with safe passage.
- G. The Harbor Master shall receive annual compensation as determined by the Board of Selectmen.

- H. The Harbor Master shall attend the meetings of the Harbor Committee

3.3 Deputy Harbor Master.

A Deputy Harbor Masters shall be recommended jointly by the Harbor Master and the Harbor Committee and approved by the Board of Selectmen. The Deputy Harbor Master shall serve under the direction of the Harbor Master and have full authority to enforce all harbor regulations in case of the harbor master's absence or disability or as otherwise conferred by the Harbor Master.

3.4 Enforcement

It shall be the duty of the Harbor Master to enforce the provisions of this ordinance. If the Harbor Master shall find any provision of this ordinance, or any rule or regulation promulgated pursuant to its authority, is being violated, he shall notify the person responsible for such violation, either verbally or in writing, indicating the nature of the violation and ordering the necessary action to correct it. A copy of written notices shall be maintained as a permanent record.

ARTICLE 4. HARBOR COMMITTEE

The Harbor Committee shall consist of not less than five (5) members nominated by the Board of Selectmen. Members shall be appointed for two-year terms and may be reappointed. Each member shall be a citizen of the Town of Trenton and shall represent diverse interests in the harbors. (I.e. recreational and commercial boat owners, abutting land owners, members of Town Boards and Committees and business owners.)

4.1 Duties and Responsibilities

Shall be to oversee the harbors and advise and report to the Board of Selectmen as follows:

- A. To advise as to the custody, care, and management of the Town's waters, harbors and related facilities.
- B. To recommend policies, rules and regulations and changes to this ordinance pertaining to such waters and facilities
- C. To make recommendations on the construction of piers, wharves, bulkheads or other structures within the harbors.
- D. To propose fees.
- E. To develop short and long term harbor plans.

- F. To review the qualifications of persons applying for Harbor Master or Deputy Harbor Master and to make recommendations to the Board of Selectmen accordingly
- G. The committee shall annually choose one of its members as chairman and a different member as secretary. The secretary shall keep a record of all proceedings and make a report at close of each year for inclusion in the Annual Town Report.

4.2 MEETINGS

The chairman or the Harbor Master may call meetings of the committee. There shall be a minimum of two meetings per year. Notice of such meetings will be posted in the Trenton Town Office at least 10 days in advance and all such meetings shall be open to the public.

4.3 QUORUM

A majority of the members appointed to the Committee shall constitute a quorum.

4.4 VOTE

The committee decisions will be made by vote of a majority of the members present and voting.

5. MOORINGS

- A. The Harbor Master shall have absolute authority over all moorings and mooring locations in accordance with the terms of this ordinance and the laws of the State of Maine. The Harbor Master will consult with the Airport Manager relative to mooring assignments to assure vessel placements, height limitations, etc. are consistent with air traffic safety requirements.
- B. Mooring permits for the harbors and other Mooring Areas of the Town of Trenton shall be issued for one year. The yearly registration fee as set by the Harbor Committee and approved by the Board of Selectmen shall be due and payable with the application. RIPARIAN owners are not required to pay a fee for their first mooring but must register them annually. Non-residents may be charged a higher fee than residents. All fees will be used to upgrade, maintain and supervise the Harbor, Bay and Town Landings areas and related facilities.
- C. Priority for enjoying the privilege of maintaining a mooring in the Town of Trenton shall be in accordance with the following:
 - a) Riparian owners
 - b) Residents

- c) Non-resident owners

D. The Harbor Master shall register all moorings with the following information:

- a. The applicant's name, address, telephone number and place of employment.
- b. The boat name, State and registration number, the vessel description, length, type, I.e. sail, power, inboard or outboard, and boat use.
- c. The signature of the applicant and date.
- d. Such other information as determined necessary by the Harbor Master.

E. The Harbor Master may deny an application due to insufficient information on the Mooring Application, failure to provide the required fee or reasons as specified by the Harbor Committee. He may also defer an application due to insufficient space for the desired mooring location or for other reasons specified.

F. No individual shall be allowed more than 2 mooring permits at a given time, unless a specific exception is made by the Harbor Master based on extenuating circumstances.

G. The Harbor Master shall annually assign locations to each mooring with the guidance of the MOORING PLAN for pleasure or commercial fishing vessels and ensure its placement in the correct location. All moorings not located in the correct locations shall be moved by the owner at his expense in accordance with the instructions of the Harbor Master. Failure to do so, the Harbor Master shall move or remove the improperly located moorings and the cost shall be borne by the owner of the mooring.

H. The Harbor Master shall keep a log of the assignment of moorings and submit the log to the Harbor Committee and the Selectmen annually on or before November 1 of the current year.

I. No person shall place, alter, or shift a mooring or buoy of any type within the boundaries of the harbors without the permission of the Harbor Master. Use of a mooring is not transferable, except with the written permission of the Harbor Master.

J. No person shall permit or place more than one craft at a mooring unless such craft does not interfere with adjacent moorings and anchorage or other navigational conditions, or exceed the limits of the weight of the mooring as determined by the Harbor Master.

- K. All moorings shall be numbered as assigned by the Harbor Master. The numbers shall be adequate size to be easily readable. They shall be placed on a floatable light colored and visible buoy attached to the mooring.
- L. All moorings shall consist of a granite block, mushroom anchor or such other anchor of sufficient weight to hold the vessel for which they are to be used in accord with the "Mooring Specifications", Article 12 below. All moorings shall be approved by the Harbor Master before being placed and inspected by the Harbor Master or a certified inspector after placement, for compliance with the applicable mooring permit. Boat and/or mooring owners will be liable for any damage caused by faulty, inadequate, or improperly placed moorings.
- M. Hand mixed concrete blocks, old engine blocks and other miscellaneous weighted objects are not acceptable as mooring anchors in the harbors.
- N. The minimum mooring scope shall be approximately two times the water depth at maximum high water. At least *one half* of the total scope shall consist of chain.
- O. Despite dimension standards established herein, any part of a mooring showing excessive or obvious wear or any mooring which does not meet the Harbor Master's approval shall not be permitted.
- P. Every four (4) years at minimum, permanent moorings shall be either lifted by the owner and inspected by a designated certified inspector or be inspected and certified by a diver at the owner's expense. The Harbor Master shall maintain a file on each mooring listing the date of the last inspection and the name of the person who last inspected it.
- Q. The installation and operation of any aquaculture activities within the Jordan River Mooring area (Zone A), Airport Harbor (Zone B) and Goose Cove (Zone C) must be outside a 10,000 foot separation zone from the nearest Hancock County Bar Harbor Airport operations area.

ARTICLE 6. FEES

The Board of Selectmen with the recommendation of the Harbor Master and Harbor Committee shall annually set applicable application and mooring fees.

A. Town of Trenton Mooring Fees

Annual Mooring Registration Fee:	\$25.00	Resident
	\$50.00	Non-Resident
	\$200.00	Commercial
Mooring Application Processing Fee	\$5.00	

ARTICLE 7. HARBOR RULES

- A.** The Harbor Master is hereby authorized to remove or cause to be removed any vessel or boat from any wharf in the tidal waters of Trenton when so requested by the owner of said wharf and whenever he shall deem it necessary he may remove or cause to be removed any vessel, boat or raft which shall anchor or lie contrary to this Ordinance, rule, regulation or State of Maine Statute. Prior to taking such action the Harbor Master shall make a good faith effort to attempt to notify the owner or person having care of said boat, vessel, or raft, and to order said owner or person responsible for said boat in an expeditious manner, the Harbor Master may remove or cause said removal at the expense of the owner of said vessel. In the event that any person after having been ordered to comply fails to so comply, action may be undertaken by the Harbor Master as in other cases where violations occur, as provided in the Ordinance.
- B.** No person shall cause to be abandoned any boat, vessel, cradle or raft within the defined harbors and Mooring Areas of the Town of Trenton. Any such objects left within the confines of such areas which shall appear to the Harbor Master to have been unattended for a period of thirty **(30)** days shall be deemed to be abandoned. The Harbor Master, may in his discretion, order the last owner (if known) to remove same within ten **(10)** days. In the event that the last owner is unknown or uncertain, or not reasonable available for notification or determination, the Harbor Master shall attach to said abandoned property a notification ordering the objects removal within ten **(10)** days. In the event that the removal as herein provided and as may be ordered by the Harbor Master is not accomplished within said ten **(10)** day period, the Harbor Master may remove, or cause its removal at the expense of the last known owner and such said object or property, in not claimed, and removal expenses are not paid by November 1st of each year, may be sold by the Town of Trenton and all monies retained from said sale shall inure to the benefit of said Town of Trenton.
- C.** Any vessel or boat may be denied access to the Town ramp or floats if it is structurally unsafe, unseaworthy, or it emanates obnoxious fumes, fluids, oils, or other obnoxious substances.
- D.** Any tender, skiff, dory or dinghy left tied to a Town float or ramp that is sunk or awash for a period exceeding seven **(7)** days shall be deemed abandoned. The object may be impounded by the Harbor Master and may be disposed of in the same manner as in 9.2 hereof. The Town shall not be liable for any damages sustained by an impounded tender or skiff.
- E.** Vessels shall be operated in the harbors and mooring areas of the Town of Trenton in a reasonable manner so as not to endanger persons or property or to cause excessive wash.

- F. No person shall refuse to obey a lawful order of the Harbor Master.
- G. Boats or vessels may anchor in those areas and for the length of time permitted by the Harbor Master.
- H. No person shall moor, or cause to be moored, any vessel, boat, scow, or raft, to any buoy or beacon placed by the Town of Trenton, the United States Government agency in the Harbors or Bays of Trenton, nor shall any person make the same fast thereto in any manner, nor willfully destroy or injure a buoy or beacon.
- I. No person shall deposit, throw, sweep, or cause to be deposited or sweep, from any vessel, wharf, dock, or any other place, into the waters of Trenton, any gas or oil, or bilge water containing same, ashes, dirt, stones, gravel, mud logs, planks, or any other substance which will obstruct the navigation of said waters, or to shoal the depth of said waters or pollute the water thereto.
- J. No person shall dump or dispose of any refuse or garbage upon any shore of the Town of Trenton, between high and low water marks, or upon waters of the ocean.
- K. No person shall cause or allow causing an unreasonable noise in the Harbors.
- L. All persons shall park their cars, trucks, and other vehicles when using a public access area set aside and marked by the Town of Trenton in such manner as to assure free access to the harbor boat launch ramp or access to the waters.
- M. All boat cradles and trailers shall be removed from the public areas when not in actual use.
- N. Boats used as tenders (**not to exceed 14ft**) shall be kept at designated locations and shall be properly cared for by the owner. All tenders shall display the owner's mooring number.
- O. Lobster traps will be allowed in the mooring areas providing they do not impede navigation or inhibit moored vessels. It shall be the responsibility of the trap owner to remove any trap entangled in a mooring.

ARTICLE 8 FINES

- A. Except as otherwise specified in this ordinance, any person who continues to violate any provision of this ordinance after receiving notice of such violation shall be subject to a fine of not less than **\$25.00** nor more than

\$100.00 for each violation. Each day a violation is continued is a separate offense. All fines shall be payable to the Town of Trenton.

ARTICLE 9 APPEALS

- A.** Any and all persons aggrieved directly or indirectly by a decision, order, rule or act, or failure to act of the Harbor Master, may appeal said decision, order, rule, act or failure to act, to the Board of Selectmen. In deciding an appeal, the Board shall hear and approve or approve with modifications of conditions, or disapprove the decision, order, rule, act or failure to act from which appeal is taken.
- B.** Such appeals shall be made in writing to the Board of Selectmen within five **(5)** calendar days of the decisions, order, rule, act or failure to act from which appeal is taken. It must state with specificity the decision, order, rule, act or failure to act from which the appeal is taken and the reason for the appeal. The appeal shall be considered by the Board of Selectmen within thirty **(30)** days of notification of appeal.
- C.** An appeal may be taken by any party from a decision of the Board of Selectmen to the Hancock County Superior Court in accordance with Maine Rule of Civil Procedure 80B.

ARTICLE 10 SEPARABILITY

- A.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.
- B.** Any prior Harbor regulation, rule, or ordinance for the Town of Trenton are hereby repealed and all Ordinances and Parts of Ordinances in conflict with or inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent prosecution or punishment of any person for any act done or committed in violation of any Ordinance hereby repealed prior to the taking effect of this Ordinance.

ARTICLE 11 EFFECTIVE DATE

This ordinance shall become effective upon adoption by a properly held Trenton Town Meeting, and shall remain in effect until amended or

repealed by the legislative body. This ordinance may be amended by the Board of Selectmen only upon recommendation of the Harbor Committee.

ARTICLE 12 MOORING SPECIFICATIONS

The following general regulations shall govern the setting and maintaining of all moorings:

- a. The Harbormaster may require heavier mooring gear at his discretion.
- b. Every mooring shall carry the number assigned to it at the time of registration.
- c. Floating rope on any mooring is prohibited.
- d. All moorings shall carry an approved float from May 15 to October 1. Poles may be used if the mooring is used year round. Seasonal pole use requires permission of the Harbor Master.
- e. From May 15 to October 1, for rock moorings, mooring scope shall be equal to the depth of the water at mean low tide + 15 feet multiplied by 2 from the rock to the bow of the boat. From October 1 to May 15, pennants may be lengthened, provided such action does not interfere with nearby moorings. Mushroom anchor moorings shall have a 3 to 1 scope measured at high tide.
- g. The following are the recommended minimum specifications for all new moorings and replacement moorings in all Harbors and Mooring Areas except as otherwise provided, or individually specified by the Harbormaster. (All moorings are placed at the owner's risk.)

Boat Length	Mushroom (lbs)	Rock Size (lbs)	Bottom chain	Top chain	Nylon
Less than 20'	100	500-1000	1/2"	1/2"	5/8"
20-25'	150-200	1,500-2,000	3/4"	1/2"	5/8"
25-30'	250-300	2,000-3,000	3/4"	1/2"	3/4"
30-40'	300-400	3,000-4,500	1"	5/8"	1"
50-60'	TBD	4,500-6,000	1"	5/8"	1"
60' and over		6,000-TBD	1"	5/8"	1"

Mooring Application & Permit

For the sum of \$(), the municipality of Trenton Maine hereby authorizes:

(Name of permittee): _____ of

(Address): _____

To place a mooring in _____ Harbor or Zone () Mooring Area in an area designated by the Harbor Master or designee.

The owner shall be responsible for the following:

1. Compliance with all federal, state, and local laws, rules and regulations;
2. Maintenance of the vessel in a seaworthy condition;
3. Protection from hull damage to own and other vessels;
4. Set and maintain a safe mooring.

The owner further agrees to hold the municipality, its employees, agents, or designees harmless from any damage, risk, or liability as a result of the authorization and placement.

Boat Information:

Reg. # _____ Exp. date: _____

Make _____ Length: _____

Hull _____

.....

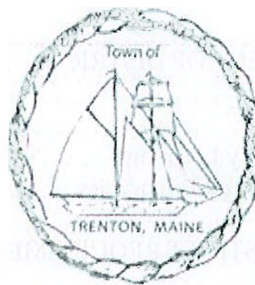
PERMIT NUMBER ASSIGNED TO MOORING _____

Signature_____Date:_____

This permit is non-transferable and is for the use of the above named person only, except on a temporary basis at the discretion of the Harbor Master or designee.

Holder of permit is responsible to set mooring and make adjustments as required for the safety of all adjacent boats. Each mooring float must be marked with the permit number in at least three inch numbers.

LAND USE ORDINANCE
TOWN OF TRENTON, MAINE



Date Amended Version Adopted:

April 13, 1996
December 17, 1996
February 17, 1998
February 24, 1998
April 3, 1999
April 8, 2000
April 7, 2001
July 10, 2007
October 28, 2008
May 10, 2010
May 20, 2011
May 17, 2016
October 22, 2019

Attest a true copy:

A handwritten signature in cursive script, reading "Carol Reed Walsh".

Carol Reed Walsh, Municipal Clerk

LAND USE ORDINANCE OF THE TOWN OF TRENTON, MAINE

CONTENTS	PAGE
ARTICLE I. GENERAL PROVISIONS	1
1.1 Authority	1
1.2 Short Title	1
1.3 Purpose	1
1.4 Applicability	1
1.5 Validity and Severability	1
1.6 Conflict with Other Ordinances	1
1.7 Availability	2
1.8 Amendments	2
1.9 Land Use Requirements	3
1.10 Conflict with other Ordinances	3
1.11 Non-Conformance	3
ARTICLE II. ESTABLISHMENT OF DISTRICTS	8
2.1 Land Use Districts	8
2.2 Location of Districts	8
2.3 Uncertainty of Boundary Locations	8
2.4 Division of Lots by District Boundaries	9
ARTICLE III. LAND USE DISTRICT REQUIREMENTS	10
3.1 Basic Requirements	10
3.2 Airport Commercial/Industrial District (ACI)	10
3.2.1 Purpose	10
3.2.2 Permitted Uses	10
3.2.3 Conditional Uses	10
3.3 Trenton Business Park District	11
3.3.1 Applicability & Purpose	11
3.3.2 Permitted Uses	11
3.3.3 Conditional Uses	11
3.3.4 Landscaping Requirements	11
3.4 Gateway Commercial District (GC)	14
3.4.1 Purpose	14
3.4.2 Permitted Uses	14
3.4.3 Conditional Uses	14
3.5 Residential Growth District (RG)	15
3.5.1 Purpose	15
3.5.2 Permitted Uses	15
3.5.3 Conditional Uses	15
3.6 Rural Residential District (Rr)	16
3.6.1 Purpose	16
3.6.2 Permitted Uses	16
3.6.3 Conditional Uses	17
3.7 Resource Protection District (RP)	17
3.7.1 Purpose	17
3.7.2 Permitted Uses	17
3.7.3 Conditional Uses	18
3.7.3 Allowed Uses	18
3.8 Rural Commercial District (RC)	20
3.8.1 Purpose	20
3.8.2 Permitted Uses	20

3.8.3	Conditional Uses	20
3.9	Rural Development District (RD)	21
3.9.1	Applicability and Purpose	21
3.9.2	Permitted Uses	21
3.9.3	Conditional Uses	21
3.10	Village District	21
3.10.1	Applicability and Purpose	21
3.10.2	Permitted Uses	22
3.10.3	Conditional Uses	22
3.11	Airport Hazard Overlay Land Use District (A)	23
3.11.1	Applicability and Purpose	23
3.11.2	Delineation of the District	23
3.11.3	Area Regulations	24
3.11.4	Nonconforming Uses or Structures	26
3.12	Route 3 Corridor Overlay Land Use District.	27
3.12.1	Applicability and Purpose	27
3.12.2	Delineation of the District	27
3.12.3	Area Regulations	27
3.12.4	Architectural Review Guidelines	31
3.12.5	Density Bonus.	32
3.12.6	Preservation of Landscape	32
3.12.7	Driveway and Related Access Standards.	33
3.12.7.2	Shared Access.	34
3.12.7.3	Parking Lot Connections	35
3.12.7.4	Access Easements.	35
3.12.7.5	Existing Driveways.	35
3.12.7.6	Temporary Permit	35
3.12.7.7	Waivers.	36
ARTICLE IV. STANDARDS		38
4.1	General Standards	38
4.1.1	Access to the site	38
4.1.2	Accessory Apartments	39
4.1.3	Air Pollution	39
4.1.4	Campgrounds	39
4.1.5	Cluster Developments	40
4.1.6	Earth Moving and Excavation	42
4.1.7	Environmental standards	43
4.1.8	Groundwater protection	44
4.1.9	Height Restrictions	45
4.1.10	Home Occupations of Professions.	45
4.1.11	Internal Vehicular Circulation	45
4.1.12	Lighting	46
4.1.13	Lot Size and Setback Requirements	46
	Lot Standards Table	48
4.1.14	Multi Family Dwelling Units	50
4.1.15	Noise	50
4.1.16	Open Space	51
4.1.17	Parking and Loading Standards	52
4.1.18	Preservation of Landscape	55
4.1.19	Septic Waste Disposal	55
4.1.20	Signs.	56

4.1.21	Surface water drainage.	56
4.1.22	Water Quality Protection	56
4.1.23	Essential Services	56
4.1.24	Net acreage Calculation for Development	57
4.1.25	Acceptance as Town Ways	57
4.1.26	Garage/Yard Sales	60
4.2	Shoreland Zone Area Standards	62
4.2.1	Agriculture	62
4.2.2	Beach Construction	62
4.2.3	Clearing	63
4.2.4	Mineral Exploration	65
4.2.5	Piers, Docks, Wharves, Etc.	66
4.2.6	Road Construction	67
4.2.7	Soils	69
4.2.8	Structures	69
4.2.9	Timber Harvesting	70
4.2.9.1	Statewide Standards [Effective on effective date established in Section 1.6.B]	72
4.2.10	Individual Private Campsites	81
4.2.11	Archaeological Sites	82
4.2.12	Erosion and Sedimentation Control	82
ARTICLE V. ADMINISTRATION		83
5.1	Creation of Administering Bodies and Agents	83
5.1.1	Code Enforcement Officer	83
5.1.2	Planning Board	83
5.1.3	Board of Appeals	83
5.2	Permits Required	83
5.2.1	Applicant Should Have Burden of Proving Conformity with the Purposes and Provisions	83
5.2.2	Installation of Public Utility Service	84
5.3	Conditional Use Permit	84
5.3.1	Conditional Use Permits Required	84
5.3.2	Procedure for Administering Permits	84
5.3.3	Permit Application	85
5.3.4	Permits to be Issued by the Planning Board	85
5.3.5	Conditions Attached to Conditional Use Permits	87
5.3.6	Expiration of Permit	87
5.3.7	Installation of a Public Utility Service.	87
5.4	Appeals to the Board of Appeals	87
5.4.1	Variance Appeals	87
5.4.2	Administrative Appeals	88
5.4.3	Appeals to Superior Court.	89
5.5	Appeal Procedure	90
5.5.1	Making an Appeal	90
5.5.2	Decision by Board of Appeals	91
5.6	Enforcement	91
5.6.1	Nuisances	91
5.6.2	Code Enforcement Officer	91
5.6.3	Legal Actions	92
5.6.4	Fines	92
5.6.5	Designation of Enforcement Officer, 30 M.R.S.A.4966	92
ARTICLE VI. CONTRACT ZONING		94

6.1	Authority	94
6.2	Purpose	94

6.3	Procedure	95
6.4	Severability.	101
ARTICLE VII.	CONSTRUCTION OF LANGUAGE AND DEFINITIONS	102
7.1	Construction of Language	102
7.2	Definitions	102

ARTICLE I. GENERAL PROVISIONS

1.1 Authority

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VII Part 2, Section 1 of the Maine Constitution and Title 30-A, MRSA, Section 3001 and Title 38 MRSA Sections 435-449

1.2 Short Title

This Ordinance shall be known and may be cited as the "Land Use Ordinance of the Town of Trenton, Maine", and will be referred to as this "Ordinance".

1.3 Purpose

The purpose of this Ordinance is to promote the health, safety and general welfare; to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide adequate light and air; to prevent over-crowding; to prevent development in unsuitable areas; to provide for adequate public services; to conserve natural resources, to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; and to conserve natural beauty and open space.

1.4 Applicability

This Ordinance shall apply to all land within the Town of Trenton. No building, structure, land or water area shall be used for any purpose or in any manner except as provided for in this Ordinance. The shoreland zoning provisions of this ordinance apply to all land areas within 250 feet, horizontal distance, of the

- upland edge of a coastal wetland, including all areas affected by tidal action, or
- upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a tributary stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending below the normal high-water line of a tributary stream or within a wetland.

1.5 Validity and Severability

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

16 Effective Date

A. Effective Date of the Ordinance and Ordinance Amendments:

The effective date of this amended Ordinance is October 28, 2008. Those sections of the ordinance that pertain to the shoreland per the requirements of Title 38 MRSA Sections 435 et seq. shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Town Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

Any application for a shoreland permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

B. Sections 4.2.9 and 4.2.9.1.

Section 4.2.9 is repealed on the statutory date established under 38 M.R.S.A. section 438-B(5), at which time Section 4.2.9.1 shall become effective. Until such time as Section 4.2.9 is repealed, Section 4.2.9.1 is not in effect.

17 Availability

A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at a reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

18 Amendments

This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, applicable to the shoreland zone as defined, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.

ARTICLE I. GENERAL PROVISIONS

Land Use Requirements.

Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

19 Conflict with Other Ordinances

Should any section or provision of this Ordinance be found to be in conflict with any ordinance or regulation, the more stringent section or provision shall prevail.

1.10 Non-Conformance

1.11.1 Purpose.

It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 1.11. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

1.11.2.1 The use of land, building, or structures, lawful at the time of adoption or subsequent amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance.

1.11.2.2 A building or structure or use which was in existence and lawful at the time of the adoption or subsequent amendments of this Ordinance, may be repaired, maintained, or improved in accordance with the terms of the Ordinance; but the non-conforming use may not be extended or expanded except in conformity with the provisions of Article V. of this Ordinance; and, furthermore, where the building or structure is located in violation of the Ordinance or subsequent extension, or improvement of said building or structure shall be in conformity with setbacks prescribed by said Ordinance as to sidelines, and the building or structure shall not be allowed to extend or expand closer to the front lot line, to any wetland, or front setback provisions as otherwise defined in said Ordinance, than otherwise lawfully permitted under the Ordinance.

1.11.3 Non-Conforming Uses

1.11.3.1. A non-conforming use which is discontinued for whatever reason for a period of one (1) year or more may not be resumed. The uses of the land, building or structure shall thereafter conform to the provisions of this Ordinance.

ARTICLE I. GENERAL PROVISIONS

1.11.2.2 Whenever a non-conforming use is superseded by a permitted use, such use shall thereafter conform to the provisions of this Ordinance and the non-conforming use may not thereafter be resumed.

1.11.2.3 Non-conforming Uses in the Shoreland Zone

- A. Expansions: Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structure or within expansions of such structures as permitted in Article 1.11.4.1.A below.
- B. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, including water dependent uses, than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Article 1.11.4.4 below.

1.11.3 Non-Conforming Lots

1.11.3.1 A single lot of record which at the effective date of adoption or amendment of this Ordinance does not meet the area, lot width and/or frontage requirements of the District in which it is located, may be built upon provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership, and that all other provisions of this Ordinance shall be met. Variance of other requirements not involving lot area, lot width or frontage shall be obtained only by the action of the Board of Appeals.

1.11.3.2 If two or more contiguous vacant or partially built lots or parcels are in single ownership of record at the time of adoption or amendment of this Ordinance, and if all or part of the lots do not meet the dimensional requirements of this Ordinance, the lands involved shall be considered to be a single lot of record for the purposes of this Ordinance and no portion of said lot of record shall be built upon or sold which does not meet dimensional requirements of this Ordinance; nor shall any division of the parcel be made which creates any dimension or area below the requirements of this Ordinance. Combined lots of record may be built upon in accordance with Article 1.11.3.1 above.

1.11.3.3 Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

ARTICLE I. GENERAL PROVISIONS

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance

1.11.4 Non-conforming Structures

1.11.4.1 Expansions: A non-conforming structure may be added to or expanded by as much as 30% of the total original existing square footage after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure as to setbacks.

Further Limitations within the Shoreland Zone

- A. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a tributary stream or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of Section 1.11.4.3 and is less than the required setback from a tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.
- B. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 1.11.4.2. Relocation, below; if the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 1.11.4.1 above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- C. No structure which is less than the required setback from the normal high-water line of a tributary stream, or upland edge of a wetland shall be expanded toward the tributary stream, or wetland.

1.11.4.2 Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with

the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

(a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

(b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

1.11.43 Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from any roadway, side, front, or rear lot line, or from a tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with all applicable setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 1.11.4.1 above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of

ARTICLE I. GENERAL PROVISIONS

floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 1.11.4.2 above.

Any non-conforming structure which is located less than the required setback from a tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained, from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the applicable setback requirements to the greatest practical extent the Planning Board shall consider in addition to the criteria in Section 1.11.4.2 above, the physical condition and type of foundation present, if any.

1.11.4.4 Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the tributary stream or wetland, or on the subject or adjacent properties and resources than the existing use. Such change of use must also be in conformity with the provisions of Article V of this Ordinance.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

ARTICLE II. ESTABLISHMENT OF DISTRICTS

21 Land Use Districts

To implement the provisions of this Ordinance, the Town of Trenton is hereby divided into the following Districts:

- 1) Airport Commercial-Industrial District (ACI)
- 2) Business Park District (BP)
- 3) Gateway Commercial District (GC)
- 4) Residential Growth District (RG)
- 5) Residential Rural (RR)
- 6) Resource Protection District (RP)
- 7) Rural Commercial District (RC)
- 8) Rural Development District (RD)
- 9) Village District (V)
- 10) Airport Hazard Overlay Land Use District
- 11) Route 3 Corridor Overlay Land Use District

22 Location of Districts As Shown on Official Land Use Map

Said Districts are located and bounded as shown on the Official Land Use Map, entitled "Land Use Map of Trenton, Maine" and on file in the office of the municipal clerk. The Official Map shall be signed by the municipal clerk and the Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. The Official Land Use Map is hereby made part of and incorporated into this Ordinance. It shall be drawn at a scale not less than: 1 inch = 2,000 feet. A reduced copy of the Official Land Use Map is annexed as an Exhibit to this Ordinance.

If amendments, applicable to the shoreland zone as defined, in accordance with Article 1.8, are made in the district boundaries or other matter portrayed on the "Land Use Map of Trenton, Maine," such changes shall be made on the official Land Use Map of Trenton, Maine within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

23 Uncertainty of Boundary Locations

Where uncertainty exists as to the boundary lines of Districts as shown on the Official Land Use Map, the following rules shall apply:

- 1) Boundaries indicated as approximately following the center lines of streets, highways, or railroads shall be construed to follow such center lines;
- 2) Boundaries indicated as approximately following established lot lines or town boundary lines shall be construed as following such lines;

ARTICLE II. ESTABLISHMENT OF DISTRICTS

- 3) Boundaries shown as following shore lines or the center lines of tributary streams, or freshwater or coastal wetlands, shall be construed to follow such lines;
- 4) Boundaries indicated as being parallel to or extensions of features listed above shall be so construed. Distances not specifically indicated on the Official Land Use Map shall be determined by the scale of the Map; and
- 5) Where physical or cultural features existing on the ground are at variance with those shown on the Official Land Use Map, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Board of Appeals shall interpret the District boundaries and be the final local authority as to their location.

24 Division of Lots by District Boundaries

- 2.4.1 Where a District boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions below.
- 2.4.2 The extension of regulations applicable to the less restrictive district shall be considered a conditional use, subject to approval of the planning board in accordance with the criteria set forth in Article V. of this Ordinance.

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

3.1 Basic Requirements

For each land use district, uses are designated as either permitted or permitted as a conditional use. All uses whether permitted with a permit from the Code Enforcement Officer or permitted as a conditional use must comply with the standards of Article IV. of this Ordinance. Uses identified as conditional uses may be permitted upon review and approval by the Planning Board in accordance with Article V. of this Ordinance. Uses not specifically identified as permitted or permitted as a conditional use are specifically prohibited in the district.

3.2 Airport Commercial/Industrial District (ACI)

3.2.1 Purpose

To provide land which is conveniently located with respect to land and air transportation facilities and municipal services and where other conditions are favorable to the development of commerce and industry; to prevent undesirable conflict between industrial development and residential and business uses.

3.2.2 Permitted Uses with a CEO Permit

Because of the potential impact on the community of the type of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

3.2.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with Article V. of this Ordinance:

- Agricultural activities;
- Essential services
- Light industrial and manufacturing activities;
- Marine related facilities;
- Storage and warehousing facilities;
- Transportation facilities and trucking terminals;
- Wholesaling facilities;
- Automobile repair and service stations;
- Business and professional offices;
- Campgrounds;
- Commercial retail and service establishments;
- Earth moving involving over 100 cubic yards;
- Hotels, motels, and other lodging places;
- Piers, docks and similar structures projecting into the water;
- Parking facilities;
- Recreation areas;
- Restaurants;

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Road construction; and
Accessory uses

33 Trenton Business Park District

3.3.1 Applicability and Purpose

The Trenton Business Park District is established to accommodate certain non-polluting manufacturing and research institutions or other light industrial uses. This district shall be preserved and protected from the intrusion of incompatible uses which might impede or otherwise have a detrimental effect on the development of such lands.

3.3.2 Permitted Uses with a CEO Permit

Because of the potential impact on the community of the types of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

3.3.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this ordinance and upon review and approval of the planning board in accordance with Article V. of this ordinance:

- Light Industry, including manufacturing, compounding, assembling or treatment of goods and products, with all goods or materials stored in enclosed buildings, such as, but not limited to, the manufacture of electrical components, appliances, or textiles;
- Research and testing facilities of a laboratory nature, including biotech-type facilities;
- Essential services
- Spin-off businesses related to pharmaceuticals and biotechnology;
- Administrative offices of manufacturing or research corporations;
- Boat construction and related technology;
- Marine service and technology businesses;
- Airport-related products and service businesses;
- Parking facilities;
- Public utility and public service uses;
- Road construction;
- Wholesaling facilities;
- Business and professional offices; and
- Earth moving involving over 100 cubic yards.
- When accessory to any of the above uses: warehouses, vehicle storage, garages and employee restaurants;

3.3.4 Landscaping Requirements

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

A. Landscape plans shall be included as part of applications for all developments permitted as conditional uses. All landscape plans must address the requirements of all the applicable sections that follow. Landscape plans shall include:

1. A planting plan showing location, quantity, time of proposed planting, and type of proposed plantings.
2. A planting schedule showing all materials to be used for landscaping, botanical name, common name, quantity, and size at installation (sizing and grading standards of the latest edition of "American Standard for Nursery Stock" shall be used").
3. All horizontal landscape construction such as walls, drives, decks, terraces, etc. shall be drawn on the conceptual landscape plan and labeled according to material and finish.
4. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc. shall be drawn and labeled sufficiently to indicate size, materials and general appearance.
5. Landscape lighting, if used on site, showing location, wattage, typical fixture design, type of bulb and quantity.
6. A landscape plan shall also show what native vegetation will remain and what will be removed. A landscaping maintenance schedule shall also be provided.

If at the time of project construction site conditions require more than a twenty-five (25) percent alteration from the landscape plan, review of changes with the planning board will be required to insure conformance with the intent of these standards.

B. Front yard landscaping requirements

The purpose of these front yard landscaping requirements is to improve the appearance of vehicular use areas and to protect, preserve, and promote the aesthetic appeal, character and value of Business Park properties.

1. Fifty percent (50%) of the required front yard must be maintained in a landscaped condition. Landscaping or landscaped condition shall mean the addition or retention of lawns, fields, trees, plants and other natural and decorative features to the land. Unless otherwise specified the preservation, care and maintenance of existing native vegetation of a size and character as noted in Section 3.3.4 can be considered "landscaping."
2. Existing vegetation of size and type as described in Section 3.3.4.E shall not be removed and there shall be no development, clearing, grading or construction activity within the required front yard with the following exceptions:
 - roadway or driveway access and limited parking as allowed for the proposed use
 - provision of electrical, telephone, cable utilities etc. service lines
 - pedestrian and/or bicycle paths
 - signs and lighting fixtures which comply with the Trenton Sign

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Ordinance

- clear sight distances at permitted entrances and exits to proposed uses
- 3. All front yard areas that are to be preserved as natural, native plant communities shall be maintained free of all debris and trash, trimmed at least once a year and managed in order to maintain the plant community for which it was established.
- 4. Cultivated landscaped areas around and in conjunction with parking lots, and signs are required as detailed in the sections that follow.

C. Parking Lot Design and Landscaping

1. General

All development shall provide permanent off-street parking space in accordance with and at a minimum in the amount specified by Section 4.1.17. Such parking areas shall be graded and properly drained in such a manner that there will be no free flow of water onto any adjacent property.

2. Landscaping of parking areas

Parking areas shall be suitably landscaped to enhance the environment and ecology of the site and surrounding area. As a guideline, large parking lots shall be designed and landscaped to fit harmoniously within the landscape and wherever possible shall be broken down into sections of not more than forty (40) spaces, separated from other sections by landscaped dividing islands, strips, berms, and similar elements.

D. Landscaping and Architectural Treatment of Freestanding Signs

All freestanding signs shall be surrounded with a cultivated landscape and installed on a wood, stone or other base material, at least two (2) feet in height and compatible with and similar to the materials of the principal structure developed on the lot. The size of the cultivated landscape area shall be at least twice as large as the size of the permitted freestanding sign and shall be landscaped with low maintenance shrubs, flowers and other similar plants.

E. Preservation of Native Vegetation

Where landscaping is required in this section it can consist of native vegetation provided that:

1. No more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4½ feet above ground level is removed.
2. There are no cleared openings greater than 250 square feet, or as required for approved construction.
3. Maintenance of vegetation is conducted on a regular basis to include removal of storm damaged, diseased, unsafe or dead trees, the control of plant species which tend to become nuisances because of their undesirable growth, but which, if properly cultivated, may be useful or functional elements of a landscape, and

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

the control of plant species as necessary to maintain native vegetation as originally established.

4. The pruning, thinning out and shaping of trees and shrubs is in accordance with standards horticultural practice. The topping of trees is not allowed and no more than 1/3 of the branching structure of a tree or shrub shall be removed within a ten year period.

F. Standards for Landscaped Materials

All plant materials and landscape development work shall conform with the specifications developed by the Maine Urban and Community Forestry Council, dated November 1992, or as subsequently amended.

G. Waivers

1. Where the board makes written findings of fact that there are special circumstances of a particular parcel proposed to be developed, it may waive portions of the requirements of Section 3.3.4 of this ordinance unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the subdivision regulations, or this ordinance.
2. In granting waivers in accordance with Section 1 above, the planning board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied, waived or modified.

34 Gateway Commercial District (GC)

3.4.1 Purpose

To support and provide for the development of highway-oriented commercial establishments along Route 3 in a manner which creates a more profitable, high quality, pleasing and memorable entrance into the Town.

3.4.2 Permitted Uses with a CEO Permit

Because of the potential impact on the community of the type of uses for which this district has been established, the planning board shall review all use applications in this district as conditional uses.

3.4.3 Conditional Uses

The following uses - provided the principal building associated with such uses does not exceed 15,000 square feet of ground floor area - may be permitted as conditional uses

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with Article V. of this Ordinance:

Automobile repair and service stations;

Business and professional offices;

Campgrounds;

Commercial retail and service establishments;

Earth moving involving over 100 cubic yards

Essential Services;

Hotels, motels, and other lodging places;

Mobile home parks in accordance with the standards of the subdivision regulations;

Multi-family dwellings of not more than eight units;

Parking facilities

Piers, docks, and similar structures projecting into the water;

Recreation areas;

Road construction;

Single family dwellings established as a part of and secondary to the conditional uses listed above;

Restaurants; and

Accessory uses.

35 Residential Growth District (RG)

3.5.1 Purposes

To provide for residential growth in such a manner and at such locations as are compatible with existing development and the ability of the Town to provide essential services and utilities. Other uses permitted in the Residential Growth District are those which are compatible with the traditional residential neighborhoods.

3.5.2 Permitted Uses With a CEO Permit

The following uses are permitted in the Residential Growth District in accordance with the standards of Article IV of this Ordinance:

- Individual private campsites within the shoreland zone area
- Single family dwellings and accessory apartments
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis;
- Cemeteries;
- Municipal facilities and grounds, providing, however, that such facilities are of a residential and/or office character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Essential Services to include electrical transmission, substation and distribution equipment, communications facilities or other compatible public utility infrastructure as defined/identified in section 7.2, *Definitions*, of this Ordinance. For purposes of this Section 3.5.2, public utility infrastructure shall not include sewerage

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

of waste treatment or disposal facilities that would be inappropriate in a residential area.

- Public utility or communication facilities or other essential services, providing, however, that such facilities are of a residential and/or office character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch.-IIIA;
- clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

3.5.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

- Aquaculture
- Roads and driveways or parking facilities within the shoreland zone area
- Marinas
- Cluster developments;
- "Convenience stores" having less than 300 square feet of floor space;
- Earth moving activities involving over 100 cubic yards;
- Home occupations;
- Mobile home parks in accordance with the subdivision regulations
- Multi-family dwellings of not more than eight units;
- Boat building/repair operations employing less than five people;
- Piers, docks and similar structures projecting into or over the normal high-water line of a water body or within a wetland;
- Recreational areas involving minimal structural development;
- Seasonal rental structures for exclusively residential use and containing not more than three (3) dwelling units per lot with each dwelling unit containing less than 700 square feet of total floor space which units may not be rented for more than six months during each calendar year. A lot with one (1) or two (2) seasonal dwelling units must contain at least 40,000 square feet and a lot with three (3) such units must contain at least 60,000 square feet; and
- Accessory uses.

Notwithstanding the listed Conditional Uses above, Commercial and Industrial Uses, excluding campgrounds, subject to planning board approval, within the shoreland zone area of this district, are prohibited.

36 Residential Rural District (RR)

3.6.1 Purposes

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

To provide for residential development in a primarily rural setting. Other uses allowed in the Residential Rural District are those that are compatible with traditional rural neighborhoods.

3.6.2 Permitted Uses With a CEO Permit

The following uses are permitted in the Residential Rural District in accordance with the standards of Article IV. of this Ordinance:

- Individual private campsites within the shoreland zone area
- Single family dwellings and accessory apartments
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis but including farm stands and farm equipment storage;
- Cemeteries;
- Essential services
- Municipal facilities and grounds, providing, however, that such facilities are of a residential character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Public utility or communication facilities or other essential services, providing, however, that such facilities are of a residential character and do not include sewerage or waste treatment or disposal facilities or similar facilities which would not be appropriate in a residential area;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch.-IIIA; portable saw mills
- clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

3.6.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

- Aquaculture
- Roads and driveways or parking facilities within the shoreland zone area
- Marinas
- Cluster developments;
- "Convenience stores" having less than 300 square feet of floor space;
- Earth moving activities involving over 100 cubic yards;
- Home occupations;- and
- Accessory uses.

3.7 Resource Protection District (RP)

| 3.7.1 Purpose

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

To protect the most vulnerable shoreland areas of waterbodies and other areas in which development would adversely affect water quality, productive habitats, biological systems, or scenic and natural areas, and to discourage development in unsafe or unhealthful areas. This district shall include:

- A. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department. Coastal wetland ratings are mapped as of January 1, 1973, and freshwater wetland ratings are mapped as of December 31, 2008.
- B. Floodplains defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to coastal wetlands as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- C. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- D. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- E. Other areas designated for Resource Protection as indicated within the Town's Comprehensive Plan.

3.7.2 Allowed Uses

The following uses are allowed in the Resource Protection District in accordance with the standards of Article IV. of this Ordinance. Uses not otherwise specified are prohibited:

3.7.2.1 Uses Allowed Without a Permit:

Non-intensive recreational uses not requiring structures such as
hunting, fishing and hiking
Motorized vehicular traffic on existing roads and trails

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Forest management activities except for timber harvesting
Fire prevention activities
Wildlife management practices
Soil and water conservation practices
Mineral exploration¹
Surveying and resource analysis
Emergency operations
Service drops, as defined, to allowed uses
Signs

3.7.2.3 Uses allowed with a Local Plumbing Inspector permit:

Conversions of seasonal residences to year-round residences
Private sewage disposal systems for allowed uses

3.7.2.4 Uses allowed with a Code Enforcement Officer permit

Timber harvesting
Clearing or removal of vegetation for activities other than timber harvesting
Temporary Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland⁷
Essential services:³
Roadside distribution lines (34.5kV and lower)
Individual, private campsites
Uses similar to allowed uses
Uses similar to uses requiring a CEO permit

3.7.2.5 Uses allowed with a Planning Board permit:

Mineral extraction including sand and gravel extraction²

Agriculture

Aquaculture

Principal structures and uses

- a. Commercial⁶
- b. Small non-residential facilities for educational, scientific, or nature
- c. Structures accessory to allowed uses

Permanent piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland⁷

Home occupations

Essential services:³

- a. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone³

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- b. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone³
 - c. Other essential services³
- Public and private recreational areas involving minimal structural development
- Campgrounds⁴
- Road construction⁵
- Land management roads
- Parking facilities^{4,5 & 8}
- Filling and earth moving of >10 cubic yards
- Uses similar to uses requiring a PB permit

¹Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

² not permitted in areas so designated because of wildlife value.

³See further restrictions in Section 4.1.23.

⁴ Are prohibited except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁵Except as provided in Section 4.2.6.

⁶ Commercial uses are prohibited except for those uses otherwise listed, such as marinas and campgrounds, that are allowed in the respective district.

⁷Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

⁸See further restrictions in Section 4.1.17

3.8 Rural Commercial District (RC)

3.8.1 Purpose

To preserve open space, rural character, maintain the existing speed and free flow of traffic along Route 3 and allow limited commercial and residential development at a scale and density compatible with the existing pattern of land use and development.

3.8.2 Permitted Uses with a CEO Permit

All uses permitted in the Residential Growth District as indicated in Section 3.52 of this Ordinance.

3.8.3 Conditional Uses

The following uses - provided the principal building associated with such uses does not exceed 10,000 square feet of ground floor area - may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

Automobile repair and service stations;
Business and professional offices;
Campgrounds;
Commercial retail and service establishments;
Earth moving involving over 100 cubic yards;
Essential services

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Hotels, motels and other lodging places;
Light manufacturing establishments;
Mobile home parks in accordance with the standards of the subdivision regulations
Multi-family dwellings of not more than eight units;
Parking facilities
Single family dwellings established as a part of and secondary to the conditional uses listed above;
Recreation areas;
Restaurants;
Road construction; and
Accessory uses.

39 Rural Development District (RD)

3.9.1 Purpose

To allow appropriate land use activities which will be compatible with existing development in adjoining areas in locations that are presently not readily accessible.

3.9.2 Permitted Uses with a CEO Permit

The following uses are permitted in the Rural Development District in accordance with the standards of Article IV. of this Ordinance:

All uses permitted in the Residential Growth District as indicated in Section 3.5.2 of this Ordinance.

3.9.3 Conditional Uses

The following uses may be permitted as conditional uses in accordance with the standards of Article IV. of this Ordinance and upon review and approval of the Planning Board in accordance with the provisions of Article V. of this Ordinance:

Roads and driveways, and/or parking facilities within the shoreland zone area
Marinas
Aquaculture
Agricultural activities;
Campgrounds;
Cluster development;
Commercial and light industrial establishments having less than 50,000 square feet of floor space;
Earth moving activities involving over 100 cubic yards;
Mobile home parks in accordance with the standards of the subdivision regulations
Multi-family dwellings of not more than eight units;
Piers, docks and similar structures projecting into or over the normal high-water line of a water body or within a wetland;
Recreation areas; and
Accessory uses.

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Notwithstanding the listed Conditional Uses above, Commercial and Industrial Uses, excluding campgrounds, within the shoreland zone area of this district are prohibited.

3.10 Village District (V)

3.10.1 Purpose

To promote a mixed use activity area that concentrates pedestrian-intensive commercial and residential uses and multi-family housing compatible with the scale and intensity of existing uses found in this area. New streets and pedestrian links with the school, town office, fire station and grocery stores are to be emphasized and encouraged.

3.10.2 Permitted Uses with a CEO Permit

- Single family dwellings;
- Accessory apartments;
- Duplexes;
- Agricultural activities excluding the raising of livestock on a commercial basis;
- Municipal facilities and grounds;
- Cemeteries;
- Timber harvesting per the standards of Title 12 MRSA ch. 805, sub-ch. IIIA;
- Clearing of vegetation for approved construction and other allowed uses; and
- Accessory uses.

3.10.3 Conditional Uses

- A. The following uses, provided the principal building associated with such uses does not exceed 3,000 square feet of ground floor area, may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

Automobile repair and service stations;
Business and professional offices;
Commercial retail and service establishments;
Earth moving activities involving over 100 cubic yards;
Essential services;
Hotels, motels and other lodging places; and

- B. The following additional uses may be permitted as conditional uses in accordance with the standards of Article IV of this ordinance and upon review and approval of the planning board in accordance with Article V of this ordinance:

Cluster developments;
Earth moving involving over 100 cubic yards;
Multi-family dwellings of not more than eight units;

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Mixed uses - any combination of the uses permitted in Section 3.10.2 and 3.10.3.A provided that each use taken separately will not exceed 3,000 square feet of ground floor area; and

Accessory uses.

- C. Pedestrian circulation. all developments shall provide for a system of pedestrian circulation within the development. This system shall connect with sidewalks, if they exist, in the vicinity of the project and establish easements to allow for future connections to adjoining properties. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.

3.11 Airport Hazard Overlay Land Use District (A):

3.11.1 Applicability and Purpose

To insure against safety hazards, noise and obstruction problems associated with aircraft utilizing the Hancock County - Bar Harbor Airport. All development proposed within this district shall be subject to the standards specified within this part, in addition to the standards and regulations contained in the particular base district in which the development occurs. Development activity within this district is subject to regulations primarily to mitigate safety and noise problems; however, land uses within this district also shall be regulated to mitigate their compatibility with airport operations. The regulations governing use and height within the Airport Hazard Overlay Land Use District conform to the standards recommended by the Federal Aviation Administration's Advisory Circular, 150/5190-4, "A Model Zoning Ordinance to Limit Height of Objects Around Airports".

3.11.2 Delineation of the District

The Airport Hazard Overlay Land Use District corresponds with the LDN 60 noise curve, as mapped by Hoyle & Tanner & Associates, Inc. and contained in the Hancock County - Bar Harbor Airport Master Plan, December 1992, in which noise-level disturbance is likely to occur, in accordance with planning standards of the FAA. It is hereby found that four (4) levels of regulation shall be necessary within the Airport Hazard Overlay Land Use District. These levels shall be mapped on the official Land Use District Map, for the Town of Trenton. Also see illustration following this section.

- A. Discretionary Noise Level - This level of regulation involves the largest geographical area, corresponds to the LDN 60 noise curve and is the most general in terms of restrictions. It is considered discretionary because it is the transitional impact level between significant and insignificant noise levels in the vicinity of the airport. It is established primarily to insure against noise problems. Within the LDN 60 noise curve it shall be necessary to protect against the effect of noise levels

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

on proposed developments. The remaining areas to be regulated are subsections of the Discretionary Noise Level.

- B. Significant Noise Level - The LDN 65 noise curve is concentrically placed inside the LDN 60 noise curve. Because of its proximity to the airport's primary surface, greater noise and safety concerns exist and more restrictive regulation shall be required.
- C. Approach Path - This subdistrict is established to insure that developments on either end of the airstrip will not pose safety problems. The Approach Path subdistrict is established for safety of structures, persons and flight operations and is the area 525 feet on both sides of the airport's primary surface, and extending to the LDN 60 noise curve at each end of the airport's primary surface.
- D. Height Limits - An area subject to special height limitations is established to prevent any hazardous vertical protrusions. This fourth subdistrict forms a trapezoid around the airport's primary surface. To illustrate the effect of these height limitations, no structure could be built up to the 35 foot height limit if it were within 245 feet (1:7) of the sides of the runway's primary surface or within 1,190 feet (1:34) of the ends of the runway.

3.11.3 Area Regulations

Geographically, the sub-districts of the Airport Hazard Overlay Land Use District overlap; however, all applicable area regulations shall be met.

- A. Requirements of all Land Use Ordinance requirements and standards for the developments within the Airport Hazard Overlay Land Use District shall conform with the pertinent design and performance standards of this section. In addition to the materials that are required by this section to be submitted by an applicant for development review, any development proposed within the Airport Hazard Overlay Land Use District shall identify, by narrative description and on the development plan, the location of individual structures in relation to the airport runway's primary surface area in order to demonstrate compliance with these regulations (see illustration attached to this section).
- B. Discretionary Noise Level District - LDN 60. Notwithstanding any other provisions of this section, no use may be made of land or water within the LDN 60 noise level district in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights (i.e., colors and patterns), result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport. Any use containing bedrooms, whether residential or commercial, may be developed, unless otherwise excluded in a sub-district, provided that the following

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

noise mitigation measures are achieved and shown on building plans and specifications at the time of application for a building permit:

- (a) All glass openings shall be double glazed.
- (b) Any larger areas of glass that exceed thirty (30) percent of the wall area shall be triple glazed.
- (c) Full year heating-air-conditioning shall be installed.
- (d) Exterior doors shall be solid core with gaskets. If a storm door is used, then any exterior door may be used as long as door gaskets are installed.
- (e) An attic space shall be provided, and if an attic is not provided, single plank roof construction is prohibited.
- (f) Provide baffling for all openings 4 inches in diameter or larger.
- (g) These provisions shall not apply to areas in a dwelling unit that are not intended for long-term occupancy such as a laundry room, a storage closet or a bathroom.

C. Significant Noise Level District - LDN 65

- (a) Residential development is prohibited inside the LDN 65 noise curve due to the severe nature of the health, safety and welfare concerns.
- (b) In addition, only low density non-residential uses shall be permitted (including but not limited to: small-scale storage, warehousing, sales/service, wholesaling operations, or those business employing fewer than 10 employees or serving less than 10 patrons at a time). Exception to this standard shall be made for uses proposed to be located on property owned by or leased to the airport which are approved by the Hancock County Commissioners as accessory to the airport and upon a finding by the County Commissioners that (1) the use is necessary for the safe or efficient functioning of the airport, and (2) no feasible alternative location exists.

D. Approach Path

- (a) Hotels, schools, churches, auditoriums, theaters and similar forms of assembly uses and high density development (more than 2 dwelling units per net acre or employing more than 10 persons) shall be prohibited in the approach path subdistrict.
- (b) Low density development (2 dwelling units or less per net acre) shall be permitted. In addition, only low density non-residential uses shall be permitted (see LDN 65 definition). Exception is made for uses proposed to be located on property owned by or leased to the airport which are approved by the Hancock County Commissioners as accessory to the airport and upon a finding by County Commissioners that (1) the use is necessary for the safe or efficient functioning of the airport, and (2) no feasible alternative location exists.

E. Height Limitations

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Within the Airport Hazard Overlay Land Use District no building, structure, utility pole or protrusion of any kind thereof shall be permitted to extend to a height measured from the mean elevation of the airport runway that exceeds the limits established by the methodology described herein. The maximum height limits permitted under this ordinance of thirty-five (35) feet shall be lowered as necessary to correspond with the limits established as follows:

- (a) The airport runway primary surface area consists of a rectangle that extends to a distance of 200 feet beyond the ends of runways 4-22 and 17-35 and is 1000 feet wide for runway 4-22 and is 500 feet wide for runway 17-35. Along both sides and ends of the airport primary surface area, at the extremity of the primary surface, the height restriction shall be zero (0) feet. Moving outward from both sides of the runways, the height limit shall increase at the rate of one (1) foot upward per seven (7) linear feet, or a ratio of 1:7.
- (b) Moving outward from the ends of the runway's primary surface area, the area subject to these special height limitations shall fan outward beyond the area that would be covered if the height limitation from the sides of the primary surface area extended beyond the ends of the runway. The area so encompassed by special height limitations at the ends of the runway is in the shape of a trapezoid, in which the smaller and larger bases are established by the FAA. The height of the trapezoid would be the linear distance from the end of the runway, as described below.

For runway 4 end - the height limit shall increase at the rate of one (1) foot upward per thirty-four (34) linear feet, or a ratio of 1: 34. For example, no structures could be built up to 35 feet within 1,190 feet of the runway 4 end.

For runway 22 end (precision instrument approach end) - the height limit shall increase at the rate of one (1) foot upward per fifty (50) linear feet, or a ratio of 1:50. For example, no structure could be built up to 35 feet within 1,750 feet of runway 22 end.

For runway 17 end - the height limit shall increase at the rate of one (1) foot upward per twenty (20) linear feet, or a ratio of 1:20. For example, no structure could be built up to 35 feet within 700 feet of runway 17 end.

For runway 35 end - the height limit shall increase at the rate of one (1) foot upward per twenty (20) linear feet, or a ratio of 1:20. For example, no structure could be built up to 35 feet within 700 feet of the runway 35 end.

3.11.4 Nonconforming Uses or Structures

- A. Regulations Not Retroactive - The regulations prescribed herein shall not be construed to require the removal, lowering or other change or alteration of any existing structure not conforming to the regulations as of the effective date of this

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the lawful construction or alteration of which was begun prior to the effective date of this ordinance, and is diligently pursued.

- B. Marking and lighting - The owner of any existing nonconforming structure is hereby required to permit the installation operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Airport Manager to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the Hancock County Commissioners.

3.12 Route 3 Corridor Overlay Land Use District

3.12.1 Applicability and Purposes

To protect and enhance the economic potential, aesthetic and visual character of lands in Trenton adjacent to Route 3. To promote safe and efficient travel; minimize disruptive and potentially hazardous traffic conflicts. To protect the substantial public investment in the Route 3 corridor by preserving mobility and avoiding the need for unnecessary and costly reconstruction which disrupts business and traffic flow. To separate traffic conflict areas by reducing the number of driveways, provide safe spacing standards between driveways, and between driveways and intersections. To provide for shared access between abutting properties and implement economic, safety and transportation-related goals of the Trenton Comprehensive Plan. Ensure reasonable access to properties, though not always by the most direct access; and to coordinate access decisions with the Maine Department of Transportation as applicable.

All development proposed within this overlay district shall be subject to the procedures, standards and guidelines specified in the following sections, in addition to those standards pertaining to the particular base land use district in which the development occurs. In addition, the purpose of the Route 3 Corridor Overlay District is to encourage high quality economic development, provide for more positive visual experiences and assure the continued safe and efficient utilization of Route 3.

3.12.2 Delineation of the District

The Route 3 Corridor Overlay Land Use District shall include all lands within 500 feet of the east side and 1,000 feet of the west side of Route 3 as measured from the centerline of the roadway.

The approximate boundary of this land use district shall be shown on the official Land Use map.

All applications for development located in the Route 3 Corridor Overlay Land use District shall be reviewed by the planning board, except for single family dwellings and

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

duplexes. If the applicant for a development permit can demonstrate that a portion of the corridor will not be visible from the road once the project is completed, the planning board may waive the architectural review guidelines of this section.

3.12.3 Area Regulations

A. Landscaping Requirements

- i. Landscape plans shall be included as part of applications for all developments permitted as conditional uses. All landscape plans must address the requirements of all the applicable sections that follow. Landscape plans shall include:
 - a. A planting plan showing location, quantity, time of proposed planting, and type of proposed plantings.
 - b. A planting schedule showing all materials to be used for landscaping, botanical name, common name, quantity, and size at installation (sizing and grading standards of the latest edition of " American Standard for Nursery Stock" shall be used").
 - c. All horizontal landscape construction such as walls, drives, decks, terraces, etc. shall be drawn on the conceptual landscape plan and labeled according to material and finish.
 - d. All vertical landscape construction such as walls, fences, raised decks, shelters, light standards, signs, flagpoles, trellises, seats, mailboxes, etc. shall be drawn and labeled sufficiently to indicate size, materials and general appearance.
 - e. If landscaping is to be irrigated, show approximate extent of coverage and outline performance specification.
 - f. Landscape lighting, if used on site, showing location, wattage, typical fixture design, type of bulb and quantity.
 - g. A landscape plan shall also show what native vegetation will remain and what will be removed. A landscaping maintenance schedule shall also be provided.

If at the time of project construction site conditions require more than a twenty-five (25) percent alteration from the landscape plan, review of changes with the planning board will be required to insure conformance with the intent of these standards.

- ii. Front yard landscaping requirements
The purpose of these front yard landscaping requirements is to improve the appearance of vehicular use areas and property abutting public rights-of-way; to require buffering between potentially incompatible uses and to protect, preserve and promote the aesthetic appeal, character and value of the Route 3 Corridor.

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- a. Seventy-five percent (75%) of the required front yard must be maintained in a landscaped condition. Furthermore, at least fifty (50%) percent of the required front yard that is directly in front of a proposed principal structure must be landscaped. Landscaping or landscaped condition shall mean the addition or retention of lawns, fields, trees, plants and other natural and decorative features to the land. Unless otherwise specified the preservation, care and maintenance of existing native vegetation of a size and character as noted in Section 3.12.3.D can be considered 'landscaping'.
- b. Existing vegetation of size and type as described in Section 3.12.3.D shall not be removed and there shall be no development, clearing, grading or construction activity within the required front yard with the following exceptions:
 - roadway or driveway access and limited parking as allowed for the proposed use
 - provision of electrical, telephone, cable utilities etc. service lines
 - pedestrian and/or bicycle paths
 - signs and lighting fixtures which comply with the Trenton Sign Ordinance
 - clear sight distances at permitted entrances and exits to proposed uses
 - the addition of plantings, earth forms or other visual buffers which, in the opinion of the planning board would better serve the purpose of this section of the ordinance.
- c. All front yard areas that are to be preserved as natural, native plant communities shall be maintained free of all debris and trash, trimmed at least once a year and managed in order to maintain the plant community for which it was established.
- d. Cultivated landscaped areas around and in conjunction with parking lots, and signs are required as detailed in the sections that follow.

B. Parking Lot Design and Landscaping

i. General

All development shall provide permanent off-street parking space in accordance with and at a minimum in the amount specified by Section 4.1.17 Required off-street parking spaces shall be so designed, arranged, and regulated as to have individual spaces marked, be unobstructed, and have access to an aisle or driveway so that any automobile may be moved without moving another, and so that no maneuvering directly incidental to entering or leaving a parking space shall be on any public right-of-way or walkway; the spaces shall be provided with bumper guards or wheel guards so located that no part of the parked vehicle will extend beyond the boundary of the established parking area into any minimum required yard. Such parking areas shall be graded and properly

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

drained in such a manner that there will be no free flow of water onto any adjacent property.

ii. Shared Parking

The required parking space for any number of separate uses may be combined in one facility. Generally, the required space assigned to one use may not be assigned to another use; thus, the total available spaces should be the sum of required spaces for each of the individual uses. Shared parking facilities where parking available is below the strict requirements for users set forth in Section 4.1.17 shall be allowable when the functional nature of the uses allow for differing peak hour demands. The number of spaces required in such a shared facility other than those specifically noted in Section 4.1.17 shall be determined by the Planning Board in accordance with the guidelines of the Urban Land Institute's Shared Parking provisions. Any such combined use will require the recording of a perpetual easement, in form and substance acceptable to the planning board, in the office of the Hancock County Registry of Deeds.

iii. Landscaping

Parking areas shall be suitably landscaped to minimize noise, glare and other nuisance characteristics as well as to enhance the environment and ecology of the site and surrounding area. As a guideline, large parking lots shall be designed and landscaped to fit harmoniously within the landscape and wherever possible shall be broken down into sections of not more than forty (40) spaces, separated from other sections by landscaped dividing islands, strips, berms, and similar elements, in accordance with the following requirements:

- a. The cultivated landscaping of the perimeter of all off-street parking areas is required except for accessways as necessary. The minimum width of the perimeter landscape strip shall be ten (10) feet and shall be landscaped with at least one tree and five (5) shrubs for every thirty feet of parking lot perimeter. Trees and shrubs in a perimeter landscape strip may be planted singly or in clusters. The remainder of the perimeter landscape strip shall be landscaped with grass, ground cover or other appropriate landscape treatment. Sand or pavement shall not be considered to be appropriate landscape treatment.
- b. Landscaping of the interior of off-street parking areas larger than forty (40) cars is required. Terminal islands between rows of parking spaces shall be provided which shall be at least five (5) feet in width and shall contain at least one tree and five shrubs for every five (5) parking spaces. Trees and shrubs in terminal islands or landscaped islands may be planted singly or in clusters. The remainder of any terminal islands or other interior landscape islands shall be landscaped with grass, ground cover or other appropriate landscape treatment. Not less than 10% of the interior of off-street parking

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

areas for more than forty cars shall be landscaped and maintained with grass or other living vegetative materials.

- c. Plants that restrict visibility such as tall shrubs or low branching trees should be avoided for security and traffic safety reasons.

C. Landscaping and Architectural Treatment of Freestanding Signs

All freestanding signs shall be surrounded with a cultivated landscape and installed on a wood, stone or other base material, at least two (2) feet in height and compatible with and similar to the materials of the principal structure developed on the lot. The size of the cultivated landscape area shall be at least twice as large as the size of the permitted freestanding sign and shall be landscaped with low maintenance shrubs, flowers and other similar plantings.

D. Preservation of Native Vegetation

Where landscaping is required in this section it can consist of native vegetation provided that:

- i. No more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level is removed.
- ii. There are no cleared openings greater than 250 square feet, or as required for approved construction.
- iii. Maintenance of vegetation is conducted on a regular basis to include removal of storm damaged, diseased, unsafe or dead trees, the control of plant species which tend to become nuisances because of their undesirable growth, but which, if properly cultivated, may be useful or functional elements of a landscape, and the control of plant species as necessary to maintain native vegetation as originally established.
- iv. Open fields or pastures are mowed at least annually.
- v. The pruning, thinning out and shaping of trees and shrubs is in accordance with standard horticultural practice. The topping of trees is not allowed and no more than 1/3 of the branching structure of a tree or shrub shall be removed within a ten year period.

E. Standards for Landscape Materials

All plant materials and landscape development work shall conform with the specifications developed by the Maine Urban and Community Forestry Council, dated November 1992, or as subsequently amended.

3.12.4 Architectural Review Guidelines

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

The compatible relationship of architecture along roads in the Route 3 Corridor Overlay District is of critical public concern for any new buildings or site improvements. The intent of the guidelines is not to stifle innovative architecture but to assure respect for and reduce incompatible and adverse impacts on the visual experience from the roadway. To accomplish this the planning board shall utilize the following guidelines in reviewing proposed structures and site improvements. The requirements of this section of the ordinance (Section 3.12.4) are not meant to be prescriptive, but are illustrative of examples of architectural design details which will meet the standards and purposes for which the Route 3 Corridor Overlay Land Use District has been established. An applicant is free to submit an application which varies from the following guidelines.

- A. Proposed development shall avoid excessive or unsightly grading, indiscriminate earth moving or clearing of property, and removal of trees and vegetation which could cause disruption of natural water courses or disfigure natural land forms.
- B. Proposed development shall be located and configured in a visually harmonious manner with the terrain and vegetation of the parcel and surrounding parcels. Structures shall impede as little as reasonably practical, scenic views from the main road or from existing structures and the natural environment.
- C. The architectural design of structures and their materials and colors shall be visually harmonious with the overall appearance, history and cultural heritage of Trenton and the Mount Desert Island area, with natural land forms and existing vegetation, and with other development plans already approved by the Town that are in compliance with this section, demonstrate the area's character, and are designed to be unobtrusive and set into the natural environment.
 - 1. Pitched roofs or the appearance of pitched roofs with a minimum slope of 5/12 are strongly encouraged. Long monotonous facade designs including, but not limited to, those characterized by unrelieved repetition of shape or form or by unbroken extension of line shall be avoided.
 - 2. Natural wood siding, brick or other materials with similar texture and appearance are recommended. Reflective or metal surfaces are not acceptable.
 - 3. Colors of materials, paints and stains shall be nature-blending, subdued earth tones. Semi-transparent stains are recommended for application on natural wood finishes.
 - 4. The location and dimensions of wall signs shall be indicated and shall maintain compatibility with architectural features of the building.

3.12.5 Density Bonus

A density bonus may be granted by the planning board when provisions are made for the following types of public benefits:

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- A. access to a new principal use occurs on an internal street with common access to Route 3 shared with abutting property owners.
- B. vantage points for views or other publicly accessible open space is made available.
- C. access to interior off-road backland parcels is provided.

The planning board may reduce lot sizes and street frontage requirements by up to 50% for projects proposed which incorporate one or more of the measures identified above. In no case shall lots served by on-site subsurface sewage disposal be less than 20,000 square feet.

3.12.6 Preservation of landscape.

The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. If a site includes a ridge or ridges above the surrounding areas and provides scenic vistas for surrounding areas, special attempts shall be made to preserve the natural environment of the skyline of the ridge. Existing vegetation and buffering landscaping are potential methods of preserving the scenic vistas.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall be preserved to the maximum extent feasible.

3.12.7.1 Driveway and Related Access Standards

All lots hereafter created and all structures hereafter created, altered or moved on property with frontage on the Route 3 corridor shall conform to the following requirements:

- a. Access Approval Required. No road, driveway, shared access, parking lot cross access, service road, or other access arrangement shall be established, reconstructed or removed without first meeting the requirements of this section.
- b. Frontage. Any lot created after the effective date of this ordinance shall have frontage upon a local or collector street, a street in an approved subdivision, or a private way approved by the Planning Board. Contiguous properties under one ownership or consolidated for unified development will be considered one parcel for purposes of this section.
- c. Adequate Driveway Spacing. Spacing between driveways shall meet or exceed the following standards:

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Posted Speed (MPH)	Driveway Separation (Feet)
35	130
36	175
37	265
38	350
55	525

Driveway spacing shall be measured from edge of driveway/entrance to edge of driveway/entrance, excluding radii. Driveways or entrances located directly across the highway from the proposed entrance will not be counted in applying the spacing standard.

- a. Adequate Corner Clearance. Spacing between driveways and signalized and unsignalized intersections shall be a minimum of 125 feet. Corner clearance spacing is measured from edge of driveway/entrance to edge of street, excluding radii.
- b. Mobility Sight Distance. The sight distance of the driveway must meet or exceed the following standards:

Posted Speed (MPH)	Sight Distance (Feet)
35	480
36	580
37	710
38	840
55	990

Sight distance is measured in accordance with this definition.

- a. High Crash Locations. Where driveways are to be located in a segment defined as an existing High Crash Location by the Maine Department of Transportation, and where left-turn access is available through alternative means of access, the Planning Board may require driveway design and signage which discourages certain turning movements.

3.12.7.2 Shared Access

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

Shared access is strongly encouraged and in some cases may be required. When required, one or more of the following options, and the standards of Section 3.12.7.4 shall apply.

- a. **Shared Driveways:** Sharing or joint use of one driveway by two or more property owners shall be encouraged. In cases where access is restricted by the spacing requirements of Section 3.12.7.1.c “Adequate Driveway Spacing”, a shared driveway may be the only access design allowed. The shared driveway shall be constructed along the midpoint between the two properties unless a written easement is provided which allows traffic to travel across one parcel to access another, and/or access the public street.
- b. **Frontage Roads:** In cases where a frontage road exists, in an adopted corridor study, and/or is proposed in an approved sight plan for an adjoining lot or parcel, access shall be provided via such frontage road, rather than by direct connection to the abutting arterial street.
- c. **Rear Service Drives:** Rear service drives shall be encouraged, especially for locations where connection to a side street is available. In addition to access along the rear service drive, direct connection(s) to the arterial street may be allowed, provided that the driveway requirements meet all other requirements of this ordinance.

3.12.7.3 Parking Lot Connections

Where a proposed parking lot is adjacent to an existing parking lot of a similar use, there shall be a vehicular connection between the two parking lots where physically feasible, as determined by the Planning Board. For developments adjacent to vacant properties, the site shall be designed to provide for a future connection. A written access easement signed by both landowners shall be presented as evidence of the parking lot connection prior to the issuance of any final zoning approval.

3.12.7.4 Access Easements

Shared driveways, cross access driveways, connected parking lots, and service drives shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements for these facilities shall be recorded with the deed.

3.12.7.5 Existing Driveways

Except for shared driveways, existing driveways that do not comply with the requirements of Section 3.12.7.1 shall be closed when an application requiring a site plan approval is submitted and approval of a new means of access is granted. A closed

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

driveway's curb cut shall be filled, graded and landscaped to conform with adjacent land and curbs.

3.12.7.6 Temporary Permit

- a. A temporary access permit may be conditionally issued to a property included in an access management plan that programs road improvements and installation of service drives and/or shared driveways that would eliminate the need for the temporary driveway.
- b. Conditions may be included in a temporary access permit including but not limited to, a limitation on development intensity on the site until adjoining parcels develop which can provide a shared driveway, shared access via a service drive, and/or cross parking lot connection consistent with the requirements of Section 3.12.7.3.
- c. A temporary access permit shall expire when the use of the site for which the temporary access permit was granted has ceased or after twelve (12) months.
- d. A site plan for property that cannot meet the access requirements of Section 3.12.7.1 nor the waiver standards of 3.12.7.7, and has no alternative means of reasonable access to the public road system may be issued a temporary access permit. When adjoining parcels develop which can provide a shared driveway, shared access via a service drive or a cross parking lot connection, the temporary access permit shall be rescinded and an application for an access permit consistent with the requirements of Section 3.12.7.1 shall be required.

3.12.7.7 Waivers

- e. Any applicant for access approval under the provisions of this Section may apply for a waiver of standards in Section 3.12.7.1 if the applicant cannot meet one or more of the standards according to the procedures provided below:
- f.
 1. For waivers on properties involving land uses with less than 100 passenger car equivalent vehicles per peak hour based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: Where the standards in this Section cannot be met, suitable alternatives, documented by a registered traffic engineer and substantially achieving the intent of the Route 3 Overlay District may be accepted by the Planning Board, provided that all of the following apply:
 - a. Adjacent development renders adherence to these standards economically unfeasible.

ARTICLE III. LAND USE DISTRICT REQUIREMENTS

- b. There is no other reasonable access due to topographic or other considerations.
- c. The standards in this Section shall be applied to the maximum extent feasible.

1. For waivers on properties involving land uses with 100 or more passenger car equivalent vehicles per peak hour based on rates published in the Trip Generation Manual of the Institute of Transportation Engineers: During the land use application process the Planning Board shall have the authority to waive or otherwise modify the standards of Section 3.7.12.1 following an analysis of suitable alternatives documented by a registered traffic engineer and substantially achieving the intent of this Section, provided that all of the following apply:

- a. Access via a shared driveway or front or rear service drive is not possible due to the presence of existing buildings or topographic conditions.
- b. Roadway improvements will be made to improve overall traffic operations prior to project completion, or occupancy of the building.
- c. The use involves the redesign of an existing development or a new use which will generate less traffic than the previous use.
- d. The proposed location and design is supported by the Maine Department of Transportation Regional Traffic Engineer as an acceptable design under the circumstances.

ARTICLE IV. STANDARDS

4.1 General Standards

Except as elsewhere specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

All land use activities shall conform to the following land use standards:

4.1.1 Access to the site.

All transportation design elements and administration provisions of the Town of Trenton shall comply with the Maine Department of Transportation Driveway Entrance Standards and the following performance standards:

- A. Access. In all districts, permitted and conditional uses shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number of access points, properly designed and located, with respect to sight-distances, intersections, schools and other traffic generators. To maintain the capacity of the Town's road network, it is necessary to provide for the coordination and combination of access points along major roads.
- B. Corner Clearance. For purposes of traffic safety in all districts no building or structure may be erected and no vegetation other than shade trees may be maintained above a height of three feet above the plane through the curb grades of intersecting streets within a triangle two sides of which are the edges of the public ways for twenty feet measured from their point of intersection or in the case of rounded street corners, the point of intersection of their tangents.
- C. Capacity. Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. The determination of level of service shall be based on the Highway Capacity Manual, Special Report 209, published by the Research Board, National Research Council, Washington, D.C., 2000. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current level of service. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

ARTICLE IV.1 GENERAL STANDARDS

- 1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.

4.1.2 Accessory Apartments

The purpose of these provisions is to provide a diversity of housing for residents while protecting the single family character of residential neighborhoods. Accessory apartments may be utilized for rental purposes as well as in-law accommodations.

A. Building plan required

Any request for an accessory apartment shall include a building plan showing the following:

- 1) Separate floor layout of all finished levels;
- 2) All plumbing facilities, kind and location;
- 3) Use of all rooms;
- 4) All entrances/exits;
- 5) Parking area.

B. Subsurface wastewater disposal

Any request for an accessory apartment shall conform to all provisions of the Maine Subsurface Wastewater Disposal Rules and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an accessory apartment until a site evaluation has been conducted by a licensed site evaluator which demonstrates that a new system can be installed to meet the disposal needs of both dwelling units.

C. Size

The accessory apartment shall have at least five hundred (500) square feet of floor area. Floor area measurements shall not include unfinished attic, basement or cellar spaces, nor public hallways or other common areas.

D. Number of units

Only one accessory apartment shall be permitted per lot.

ARTICLE IV.1 GENERAL STANDARDS

E. Prohibitions

Accessory apartments shall not be permitted for any nonconforming structure or use, where the nonconformity is due to the use of the premises, as opposed to nonconforming dimensional requirements.

4.1.3 Air Pollution

No dust, dirt, fly ash, fumes, vapors, or gases shall be emitted into the air from any land use or establishment so as to endanger the public health and safety, to impair safety on or the value and enjoyment of other property or to constitute a critical source of air pollution. Air pollution control and abatement shall comply with applicable minimum federal and state requirements.

4.1.4 Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet of suitable land in shoreland zone, and 2,500 square feet of suitable land in inland areas, not including driveways and roads or land below the normal high-water line, for each site.
- B. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
- C. The area intended for placement of the recreational vehicle, tent or shelter site, and utility and service buildings shall be set back a minimum of 50 feet horizontal distance from the exterior lot lines of the camping area, and 75 horizontal distance feet from the normal high-water line of any - tributary stream, or the upland edge of a wetland.
- D. Screening shall be required where necessary to shield the campground from non-compatible abutting areas.

4.1.5 Cluster Development

The purpose of these provisions is to provide for the more efficient use of land and the preservation of open space and to allow for new concepts of housing development where maximum variations in design and layout may be allowed, provided that the following requirements are met:

ARTICLE IV.1 GENERAL STANDARDS

- A. Cluster developments shall be permitted on parcels or tracts of land 15 acres or more in size, and must meet all of the requirements for subdivisions;
- B. Uses shall be limited to those permitted in the district in which the project is located;
- C. Overall, maximum net residential density means the number of dwelling units, either as single family dwellings or contained in a multi-family dwelling (and subject to all other provisions of this Ordinance which are not inconsistent with these specific provisions) per suitable acre of the site. For Cluster Developments the overall, maximum net residential density shall not exceed one dwelling unit for each 40,000 square feet of suitable site acreage. Lot sizes may, however, be reduced to as little as 20,000 square feet of suitable land (30,000 square feet in the shoreland zone) provided that the sum of the areas by which any building lots are reduced below 40,000 square feet is reserved as dedicated open space. In calculating the overall, maximum net residential density allowable, the following areas shall not be included in the determination of suitable acreage or land for the calculation of maximum net residential density: land which is situated below the normal high-water line of any water body; land which is located within the 100 year frequency flood plain (the elevation of filled or made land shall not be considered); land which is part of a right-of-way, or easement, including utility easements; land that has been created by filling or draining a pond or wetland; land which is located in a town designated resource protection district; land which has slopes in excess of 15%; and land which is identified by the Natural Resource Conservation Service as having a seasonal high-water table of 6" or less.

An example of the application of the provisions of this section of the Ordinance follows:

If, in the non-shoreland portion of the Residential Rural District (RR), 3 acres of a total 15 acre site are unsuitable due to slope and wetland characteristics, the remaining suitable acreage available for development is 12 acres of suitable land. The maximum permissible density for residential dwelling units to be built on this 15 acre parcel is determined as follows: 522,720 square feet of suitable land (square feet of suitable land = 12 acres x 43,560 sq.ft./acre or 522,720 square feet), divided by the required minimum lot size for the Residential RR District of 40,000 square feet, equals 13 permissible dwelling units for the entire 15 acres. These 13 dwelling units could be arranged as 13 single family dwellings, or any other mixture permitted elsewhere in this ordinance of single, two family or other multifamily dwellings. The Planning Board may allow lots within a cluster subdivision to be reduced in area below the minimum normally required, in return for open space, where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features without increasing the overall net density of the development. In the example used above 13 dwelling units could be situated on approximately six (6)

ARTICLE IV.1 GENERAL STANDARDS

acres, or 260,000 square feet of suitable land on the overall 15 acre parcel (13 dwelling units, multiplied by 20,000 square feet, equals 260,000 square feet, or about six (6) acres) provided the remaining nine acres of the parcel is reserved as dedicated open space. The total area of reserved open space within a development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by this Ordinance. In the example provided 13 lots were reduced by 20,000 square feet each, and therefore the dedicated open space would need to total 260,000 square feet of suitable land, or about six (6) acres, plus the three (3) acres of land found unsuitable due to slope and wetland limitations.

- D. The distance of every building from the property line of properties abutting the cluster development shall meet the setback requirements of the district in which the project is located;
- E. Each building shall be an element of an overall plan for site development, which shall identify the location of lots, roads, structures, open spaces, and other significant features;
- F. Open space areas included in the calculation for net density shall be identified and the mechanism for their maintenance and upkeep shall be stated. Further subdivision of land identified as open space is prohibited.
- G. The Planning Board may require that an applicant for a cluster development include as an alternative for the Board's review a common or shared water supply and/or a common or shared subsurface waste water disposal system.

4.1.6 Earth Moving and Excavation

The following performance standards shall apply to earth moving and excavation activities of more than ten (10) cubic yards. These standards are not intended to prohibit normal earth work activities in conjunction with and incidental to construction, alteration, or repair of a structure or the grading and landscaping incidental thereto for which a building permit has been issued.

- A. No excavation and/or removal of earth material shall be permitted within 100 feet of any property line, public roadway or public facilities, or within 150 feet of any structure.
- B. No below grade excavation shall create an unstable slope so that the land within 100 feet of any property line, public roadway or facility shall be subject to any increased erosion, slump or mass movement, or other detrimental effect.
- C. No earth moving or excavation operation shall result in increased erosion or runoff that will adversely affect any adjoining properties.

ARTICLE IV.1 GENERAL STANDARDS

- D. No excavation shall be worked below the normal ground water level or adversely affect ground water.
- E. All operations shall be screened from view from adjacent property with adequate fencing, vegetation, or other appropriate means.
- F. All land which has been excavated must be rehabilitated according to a "seeding plan" approved by the U.S. Department of Agriculture, Natural Resource Conservation Service (NRCS) District. A minimum of two (2) inches of top soil or loam shall be returned to cover all areas so that they may be seeded and restored to natural conditions with vegetation. Rehabilitation measures shall include the application of 150 pounds of lime, 20 to 30 pounds of complete fertilizer and 3 pounds of conservation seed mix per 100 square feet of disturbed land.
- G. Where an embankment must be left upon the completion of operations, it shall be at a finished slope of not steeper than one (1) vertical foot to two (2) feet horizontal.
- H. All restoration activity shall be complete as of one year following the date the use of the operation is discontinued. The operation shall be deemed discontinued if no work has been done within twelve (12) consecutive months.
- I. A Natural Resource Conservation Service (NRCS) restoration plan shall be required prior to the approval of a conditional use.
- J. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A., Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within seventy-five (75) feet of the normal high-water line of any tributary stream, or the upland edge of a wetland.
- K. All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

4.1.7 Environmental standards.

All development shall be designed in accordance with applicable standards designed to protect the environment.

Conservation, erosion and sediment control.

The following measures shall be included where applicable as part of any land use application review and approval.

- a) Stripping of vegetation, re-grading or other development shall be done in such a way as to minimize erosion.

ARTICLE IV.1 GENERAL STANDARDS

- b) Development shall preserve salient natural features and wildlife habitat as identified in the comprehensive plan and the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Program, keep cut-fill operations to a minimum and ensure conformity with the topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
- c) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
- d) Disturbed soils shall be stabilized as quickly as practical.
- e) Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
- f) The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
- g) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
- h) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
- i) Any activity in a protected natural resource shall comply with the State's Natural Resources Protection Act, Title 38 M.R.S.A. Sections 480A-480BB. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the protected natural resource for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
- j) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

4.1.8. Groundwater protection.

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that the

ARTICLE IV.1 GENERAL STANDARDS

groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

4.1.9 Height Restrictions

The building or structure height limitations for all districts shall be 35 feet, except for steeples, silos, detached barns, windmills, and water towers and similar structures having no floor area.

4.1.10 Home Occupations or Profession

The use of land and/or buildings for the purposes of a home occupation or profession shall be permitted in any district provided that such use shall conform to the requirement of this Ordinance, including the following:

- A. The home occupation shall be conducted wholly within the dwelling or accessory structure.
- B. The home occupation shall be secondary and subordinate to the primary use of the structure which is residential.
- C. The home occupation shall be carried on by a member of the family residing in the dwelling unit.
- D. There shall be no alteration or additional structures, no exterior storage, displays, or signs other than those permitted under the Sign Ordinance for the Town of Trenton, and no other exterior indication of the home occupation or variation from the residential character of the principal building.
- E. Objectionable conditions such as noise, smoke, dust, odors, heat, glare, electrical disturbance, radiation, or waste discharge shall not be generated by the home occupation.
- F. In addition to the off-street parking provided to meet the requirements of the dwelling, off-street parking shall be provided in conformance with the parking requirements for businesses and professional offices in Section 4.1.18 of the Ordinance.
- G. In no case will an activity primarily involving retail sale be permitted.

4.1.11 Internal vehicular circulation.

The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

- 1) Non-residential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.
- 2) Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.

ARTICLE IV.1 GENERAL STANDARDS

- 3) The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.
- 4) All streets and access ways shall be designed to follow the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
- 5) Access ways shall be designed to provide for connection to adjacent streets.

4.1.12 Lighting

- A. No lights shall be placed or maintained upon or in view of any public roadway so that its beam or rays are directed at any portion of the roadway when the light is of such brilliance and so positioned as to impair the vision of the driver of any motor vehicle upon said roadway.
- B. Adequate buffers using either natural landscaping or artificial screening are required to prevent unnecessary or undesirable light from being directed beyond lot lines onto adjacent properties.

4.1.13 Lot Size and Setback Requirements

Lot size, front, rear, and side yard setbacks, maximum lot coverage, and maximum residential density for structures in each of the districts shall conform to the table on lot standards and the following:

- A. Wherever a side yard or back yard is adjacent to a public roadway, the regulations for front yard setbacks shall apply to the side yard as well.
- B. A lot within the shoreland zone shall have the following minimum shore frontages as measured in a straight line between the points of intersection of the side lot lines with the shoreline: 150 feet for residential uses per dwelling unit adjacent to a coastal wetland; 200 feet for residential per dwelling unit adjacent to a freshwater wetland, and for other non-residential uses per principal structure adjacent to a coastal wetland; and 300 feet for non-residential uses per principal structure adjacent to a freshwater wetland.
- C. Land below the normal high-water line of an upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

ARTICLE IV.1 GENERAL STANDARDS

- D. Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- E. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of an upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- F. If more than one residential dwelling unit or more than one principal, governmental, institutional, commercial or industrial structure or use is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure; except that outside the shoreland zone, in the case of a duplex or a single apartment located in the principal or an accessory structure, in which case the dimensional requirements for a single dwelling unit shall apply.

4.1.15 Lot Standards Table

	Residential Growth	Village	Airport Commercial Industrial	Gateway/ Commercial	Rural Commercial	Rural Development	Resource Protection	Business Park	Rural Residential
Minimum Lot Size (sq. ft.)									
Residential (per principal structure)	40,000	20,000 ⁴	--	80,000	5 acres	40,000	40,000	--	40,000
Commercial/Industrial (per principal structure)	40,000	40,000	40,000	80,000	5 acres	5 acres	--	60,000	40,000
Minimum Lot Width (feet)									
Residential (per principal structure)	200	200	--	300	450	200	200	--	200
Commercial/Industrial (per principal structure)	200	200	400	300	450	400	--	200	200
Minimum Road Frontage (ft)⁶									
Residential (per principal structure)	150	200	--	300	450	200	200	--	200
Commercial/Industrial (per principal structure)	150	200	400	300	450	400	--	200	200
Minimum Front Yard Setback from the Centerline of a Roadway (ft)¹									
Route 3	--	135	135	135	1	--	75	--	--
Other Roads									
Residential	75	75	--	75	75	75	75	--	75
Commercial/Industrial	75	75	75	75	75	125	75	55	75
Minimum Side Yard Setback from a Lot Line (ft)									
Residential	15	15	25	25	25	25	35	--	25 ⁵
Commercial/Industrial	15	15	25	25	25	100	--	25	25 ⁵
Minimum Back Yard Setback from a Lot Line (ft)									
Residential	50	25	40	40	40	40	50	--	50
Commercial/Industrial	50	25	40	40	40	40	--	25	50
Maximum Lot Coverage									
Residential	20%	60%	--	30%	15%	20%	10%	--	20%
Commercial/Industrial	20%	60%	25%	30%	15%	20%	10%	50%	20%
Maximum Residential Density² (sq. ft./dwelling unit)	40,000	20,000 ⁴	--	40,000	40,000	40,000	--	--	40,000
Maximum Building Height (ft)³	35	35	35	35	35	35	35	35	35

ARTICLE IV.1 GENERAL STANDARDS

- ¹ Minimum frontyard setback in the Rural Commercial District varies according to the size of the principal structure: A principal structure with
- | | |
|---|--|
| 3,000 sq. ft. of ground floor area - 135 feet frontyard setback | 4,000 sq. ft. of ground floor area - 145 feet frontyard setback |
| 5,000 sq. ft. of ground floor area - 155 feet frontyard setback | 6,000 sq. ft. of ground floor area - 165 feet frontyard setback |
| 7,000 sq. ft. of ground floor area - 175 feet frontyard setback | 8,000 sq. ft. of ground floor area - 185 feet frontyard setback |
| 9,000 sq. ft. of ground floor area - 195 feet frontyard setback | 10,000 sq. ft. of ground floor area - 210 feet frontyard setback |

² An exception to these density requirements exists in Section 4.1.13.F.

³ Maximum building height will vary within close proximity to the airport, see Section 3.10.

⁴ Lot size in the village district may be reduced to 10,000 square feet per primary residential unit if served by a centralized water and sewer system

⁵ For Non-conforming Lots of Record in the Rural Residential District the Side-Yard Setback shall be fifteen (15) feet.

ARTICLE IV.1 GENERAL STANDARDS

4.1.14 Multi-Family Dwelling Units

Multi-family dwelling units shall meet all of the following criteria:

- A. Lot area and shoreline frontage shall be equal to that required for the equivalent number of single-family dwelling units.
- B. Minimum road frontage shall be 150 feet.
- C. Lots for multi-family dwelling units shall meet all other setback and lot coverage requirements for single-family dwellings.
- D. No building shall contain more than eight (8) dwelling units.
- E. All multi-family dwellings shall be connected to a common water supply and distributions system at no expense to the municipality.
- F. All multi-family dwelling units shall be connected to a collection and treatment system in accordance with the sanitary provisions of State law.
- G. No parking shall be located within the required yard area.
- H. All multi-family developments shall meet the landscaping requirements of the Route 3 Corridor Overlay District regardless of their location in town.

4.1.15 Noise

With the exception of natural phenomena, emergency vehicles, warning devices, time signals, and noise necessarily involved in the construction or demolition of buildings and other structures, or fishing, farming and timber harvesting operations, no noise which is objectionable due to volume, intermittence, beat frequency, or shrillness shall be transmitted outside the lot where it originates.

The maximum permissible sound pressure level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any activity regulated by this Ordinance shall be established by the time period and type of land use listed below. Sound use levels shall be measured on a sound meter at all major lot lines, at a height of at least four (4) feet above the ground surface.

ARTICLE IV.1 GENERAL STANDARDS

District	Sound Pressure Level Limit (decibels)	
	7AM - 8PM	8PM - 7AM
Resource Protection:	50	45
Residential: Growth	55	45
Rural Residential	50	45
Rural Development:	65	55
Rural Commercial:	65	55
Gateway Commercial:	65	55
Airport Commercial/Industrial*:	75	60
Business Park:	75	60
Village:	65	55

***NOTES:** A. These limits do not apply to aircraft operations. B. Portions of this zone are also subject to the standards of the Airport Hazard Overlay District (see Section 3.10). All uses within this overlay district must also meet the noise standards specified in section 3.10. In the event of a conflict between these standards, those of section 3.10 shall apply.

4.1.16 Open space

- 1) Common open space areas shall be contiguous, where possible.
- 2) Common open spaces as shown on a ny approved development plan shall contain a notation that common open space areas shall not be further developed for any other use.
- 3) When reviewing the location and type of open space designated in an application, the Planning Board shall require:
 - a) Individual lots, buildings, streets, and parking areas shall be designed and situated:
 - i. to minimize alterations of the natural site and key natural features and wildlife habitats identified as such in the comprehensive plan and by the Maine Department of Inland Fisheries and Wildlife Beginning With Habitat program ;
 - ii to avoid the adverse effects of shadows, noise and traffic on the residents of the site;

ARTICLE IV.1 GENERAL STANDARDS

- iii. to relate to surrounding properties and to improve the view from and of buildings.
- b) Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.
- c) Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, rock outcroppings and features identified in the Beginning With Habitat program and the comprehensive plan).
- d) Open space intended for recreation or public use shall be determined by the size, shape, topographic and location requirements of the site.
- e) Special consideration shall be given to preserving access to brook trout streams.
- f) Developments in excess of 100 acres shall provide sufficient open space to meet the open space needs of users or residents of that development

4.1.17 Parking and Loading Standards

Off-Street Parking. In any district where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, or enlargement, off-street automobile parking space within 300 feet of the principal building, structure or use of the premises, in accordance with the following parking requirements:

- A. An area of 200 square feet appropriate for parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.
- B. Unless the requirements of Section 3.11.3.B.ii are met, no required parking space shall, for the purposes of this Ordinance, serve more than one use.
- C. No off-street parking facility shall have more than two entrances and exits on the same street.
- D. Parking areas with more than two parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

ARTICLE IV.1 GENERAL STANDARDS

- E. All off-street parking shall be constructed and maintained in accordance with the requirements of the Building Code of the Town of Trenton.
- F. Parking areas containing 10 or more spaces shall have landscaping as may be approved by the Planning Board pursuant to land use application for purposes of reducing to the original rate of runoff in mitigation of the increase in runoff resulting from the increased area of pavement.
- G. The following minimum off-street parking requirements shall be provided and maintained in case of new construction and changes of use. Such parking may be provided in the open air:

Accessory Apartment- 1 space per each accessory dwelling unit.

Automobile Repair and Service Stations - 1 space for each regular employee plus 1 space for each 50 square feet of floor area used for service.

Boarding, Rooming Houses and Tourist Homes - 1 space for each guest room.

Bowling Alley - 3 spaces for each bowling lane.

Business and Professional Offices - 1 space for each 100 square feet of working space.

Churches - 1 space for each 3 persons based on seating capacity.

Drive-in Restaurants and Dairy Stands - Minimum of 10 spaces.

Fraternal Organizations and Clubs - 1 space for each 4 members.

Funeral Parlors - 1 space for each 75 square feet of floor space in slumber rooms, parlors and individual service rooms.

Hospitals and Nursing Homes - 1 space for each 3 beds, plus 1 space for each staff or visiting doctor, plus 1 space for each 4 employees.

Hotels and Motels - 1 space for each guest bedroom, plus 1 space for each 4 employees.

Industrial, Manufacturing Establishments and Boat Yards - 1 space for each 1.2 employees at period of maximum employment, plus 1 space for each company vehicle operating from the premises.

ARTICLE IV.1 GENERAL STANDARDS

Marinas - Minimum of 30 parking spaces.

Places of Amusement or Public Assembly - 1 space for each 50 square feet of floor area devoted to patron use.

Residential Dwelling Units - 2 spaces for each dwelling unit.

Restaurants and Cocktail Lounges - 1 space for each 4 seats plus 1 space for each 2 employees.

Retail Business - 1 space for each 150 square feet of sales area.

Roadside Farm Stands - 4 spaces.

Schools – 1 space for each employee plus: 1 space for each 30 pupils in primary school; 1 space for each 4 students in secondary schools; and 1 space for each 3 students in higher education.

Theaters - 1 space for each 3 seats.

Wholesale and Warehouse Business - 1 space for each 1.5 employees per shift, plus visitor and customer parking to meet the needs of specific operations.

- H. No off-street parking area along Route 3 shall be located within the minimum front yard setback. Any parking areas shall meet the shoreline setback requirement for structures for the district in which such areas are located as indicated in Article 4.2.8.
- I. Parking areas shall be designed to prevent stormwater runoff from flowing directly into a water body, and meet all surface water drainage standards of this ordinance.
- J. Off-Street Loading. In any district where permitted, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use serviced so that trucks, trailers and containers shall not be located for loading or storage upon any public way, in accordance with the following standards:
 - 1. Required loading spaces shall in no case be part of the area used to satisfy the off-street parking requirements of this Ordinance.
 - 2. Each loading bay shall have minimum dimensions of 70 feet by 14 feet with a minimum overhead clearance of 15 feet, and may be located either within a building or outside and adjoining an opening in the building.

ARTICLE IV.1 GENERAL STANDARDS

3. No off-street loading spaces shall be permitted in a front yard or on the side of a building abutting a street, except where included in a site plan approved by the Planning Board.
4. Joint use of loading spaces by two or more users in the Commercial or Airport Commercial Industrial districts may be authorized by the Planning Board during the land use application process.
5. All off-street loading areas shall have landscaping as may be approved by the Planning Board pursuant to The land use application process for purposes of reducing any adverse effects resulting from vast areas of pavement.
6. A minimum number of off-street loading spaces shall be provided and maintained by the owner of any building hereafter erected, altered or changed in use, in accordance with the following schedule:

USE	GROSS FLOOR AREA IN SQ. FT.	SPACES REQUIRED
Hotel, Motel, Office Building	Up to 50,000	1
	50,000 or more	2
Retail, Service, Wholesale, Warehouse, Industrial Use	Up to 25,000	1
	25,000 to 50,000	2
	50,000 to 100,000	3
	For each additional 50,000 or fraction thereof	1 additional

4.1.18. Preservation of landscape.

Environmentally sensitive areas such as wetlands, steep slopes, flood plains, wildlife habitats as identified in the Maine Department of Inland Fisheries Beginning With Habitat Program, and unique natural features as identified in the comprehensive plan shall be maintained and preserved to the maximum extent feasible. Natural drainage areas shall be preserved to the maximum extent feasible.

4.1.19 Septic Waste Disposal

- A. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet,

ARTICLE IV.1 GENERAL STANDARDS

horizontal distance, from the normal high-water line of the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

4.1.20 Signs

All signs shall comply with the Sign Ordinance of the Town of Trenton.

4.1.21 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 in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.

4.1.22 Water Quality Protection

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.

4.1.23 Essential Services

A. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.

B. The installation of essential services, other than distribution lines, is not allowed in a Resource Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

ARTICLE IV.1 GENERAL STANDARDS

C. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

4.1.24 Net Acreage Calculation for Development

The following lands in the Rural Residential Zone shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size requirements of this Ordinance for lots that are subject to subdivision review:

- A. Land which is situated below the normal high water line of any water body;
- B. Land which is part of a road or a right-of-way, or easement, including utility easements;
- C. Land that has to be created by filling or draining a pond;
- D. Land that has been determined to be a freshwater wetland, as defined in Title 38, MRSA, Section 480-B, regardless of size.
- E. Land identified as having soil that is poorly drained or very poorly drained, alluvial or flood plain according to a soil scientist and in accordance with classifications of the National Cooperative Soil Survey.
- F. Contiguous areas of 5,000 square feet or more with slopes over 25%.
- G. 50% of any contiguous area of 5,000 square feet or more with slopes of 15% to 25%.

4.1.25 Acceptance as Town Ways

In the interest of encouraging growth in residential growth areas as designated in the comprehensive plan, the following procedure shall apply to the acceptance of town ways:

- A. General. All streets which are laid out or proposed for town acceptance shall be in accordance with Maine law and the provisions of this chapter as follows:
 - 1 Subdivisions. The Planning Board shall not approve any subdivision plan unless proposed street(s) are designed and to be constructed in accordance with the standards of this chapter. Final subdivision plan approval by the Planning Board shall not be deemed to constitute or be evidence of acceptance or intent of acceptance by the town of any street.
 - 2 Conditional Use Permits. The Planning Board shall not approve any conditional use permit unless the

ARTICLE IV.1 GENERAL STANDARDS

- . proposed street(s) are designed and to be constructed in accordance with the standards of this chapter. Final conditional use permit approval by the Planning Board shall not be deemed to constitute or be evidence of acceptance or intent of acceptance by the town of any street.
- 3 Petition to town legislative body for acceptance of a street as a town way. All petitions for the acceptance of a street(s) as a town way shall be made to the Board of Selectmen prior to being brought before Town Meeting, and shall be in accordance with Maine law and the provisions of this chapter. Streets not surfaced with hot rolled bituminous pavement are not eligible for petitioning or acceptance as town ways.
- 4 Streets shall not be eligible for petitioning or acceptance as Town ways until at least 80% of the dwelling units or structures which the street is designed to serve are constructed.

B. Application procedure for street acceptance.

- 1 All petitions for street acceptance shall be accompanied by an application which includes the following information:
 - (a) Petitioner's name, address, phone, signature and date.
 - (b) Names of the owner(s) of record of the land upon which the proposed town way is located, including any proposed easements proposed as part of the petition to the Town.
 - (c) A copy of the most recently recorded deeds for the land that is the proposed street.
 - (d) A statement of any legal encumbrances on the land upon which the proposed town way is located.
 - (e) A legal description of the proposed town way (and all associated easements), giving complete descriptive data by bearings and distances based upon a standard boundary survey of the parcel, made and certified by a Maine registered land surveyor, along with a copy of the survey plan, and written verification by the surveyor that permanent monumentation has been set at all street intersections and points of curvature.
 - (f) A written certification by a professional engineer, registered in the state of Maine, certifying that the proposed town way meets or exceeds the design and construction standards set forth in this chapter.
 - (g) One Mylar and two sets of blue prints of as-built conditions of the proposed town way conforming to the plan requirements and standards of this chapter. Where underground utilities have been installed, the as-built plans shall show the final, installed location of such lines.
 - (h) Date that street construction was completed, including the dates that the base course and surface course of pavement were installed.
 - (i) If the street is located in a rural area as designated by the comprehensive plan, a statement of how acceptance of the street as a town way is consistent with the goals of the comprehensive plan.
- 2 Upon receipt of a petition and application for a proposed street acceptance, the Board of Selectmen shall forward one set of plans to the Planning Board and one set of plans to the town's consulting engineer who shall review and provide written comment back to the Selectmen. The engineer's comment shall state either that the street meets the town's street design and construction standards as specified in this chapter, or shall provide a list of the standards which have not been met. The town's engineer's review shall include a field inspection of the proposed town way, to determine if there are any

ARTICLE IV.1 GENERAL STANDARDS

performance problems or structural failures which have occurred since the completion of the street construction. The planning board's review shall include a statement as to whether or not the acceptance of this street would be consistent with the comprehensive plan.

- 3 When the Board of Selectmen determines that the proposed street meets or exceeds the design and construction requirements of this chapter and the goals of the comprehensive plan, it shall set and hold a public hearing on the petition. At or following the public hearing, the Board of Selectmen shall vote to place it on the next available Town Meeting warrant.

4.1.26 Garage/Yard Sales

PURPOSE: Perpetual, prolonged and extended yard sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create noise, traffic congestion, unsightly signage, and other nuisances and often violate the Zoning Ordinance of the Town. The regulations contained herein are designed to control and restrict yard sales in order to protect the public health, safety and convenience of citizens of Trenton and to restrict sales to casual or occasional occurrences only, in keeping with the character of residential neighborhoods.

DEFINITION: Yard sale, garage sale, tag sale, barn sale etc. shall all be considered a garage sale. A garage sale is the sale of used household and personal articles (furniture, tools, toys, clothing, etc.) held on the seller's own premises and conducted by family members residing in dwelling.

Permit Required:

No person shall sell or offer for sale personal property from any residential premises except as permitted by this article. Agricultural products are not considered personal property and not included in this ordinance, therefore not permitted to be sold at or in conjunction with the garage sale. Only the sale of donated personal property and the sale of personal property owned, used and maintained for personal use only by the seller, and not for resale to the public shall be sold from residential premises, and only after issuance to the seller of a permit for such purposes, as follows:

- A. A permit may be obtained from the Trenton Town Office. The fee for a permit shall be paid in accordance with the business fee schedule as established by the Board of Selectmen.
- B. Permit shall be issued for sales of personal property upon residential premises and not a commercial property, unless the commercial property is also the seller's primary residence. The permit shall be for a period of no more than three consecutive days, and no more than three permits shall be issued for any one location in any twelve month period. Permits required under this article shall be on forms furnished by the Town of Trenton. Two or more people may hold a garage sale jointly at one location upon obtaining a single permit. The person who resides at the location where the garage sale is held shall be listed as the applicant and it will be considered a neighborhood garage sale.

Neighborhood garage sales:

Definition: A garage sale with more than one household combining to have a garage sale in one location. Those participating in the garage sale shall be considered the neighborhood.

- A. A neighborhood garage sale is permitted under this article. When applying for a garagesale permit, the organizer or one of the participants in the garage sale shall list his/her address as

ARTICLE IV.1 GENERAL STANDARDS

the location of record where the garage sale shall take place. The names and addresses of all of the participants shall be listed on the permit application and it shall be considered as one of the three permitted garage sales per year for any of the participants.

- B. In addition, for the purpose of the article, a neighborhood garage sale shall be considered as a single event and the permit charge shall be the same as for a single garage sale.
- C. Neighborhood garage sale permits are valid for the same periods as other garage sales and no more than one neighborhood garage sale shall be allowed at a specific location more than once every twelve months.

Traffic Safety:

- A. Applicant must make sure that the garage sale does not inhibit the flow of traffic or the safety of pedestrians. Applicant must use pylons or other forms of safety alerts to dissuade parking on both sides of the street where traffic would be reduced to a single lane.

Signs:

- A. All signs shall be in compliance with the Town of Trenton Sign Ordinance. Signs for a garage sale are permitted twenty-four hours prior to the garage sale and must be removed within twenty-four hours after the garage sale.
- B. Garage sale signs shall not cover any part of official safety or traffic signs or sign posts holding such signs, and shall not interfere with the visibility of vehicles.

Exemption:

- A. The provisions of this article shall not apply to sales made of personal property made under court order or process.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

4.2 Shoreland Zone Area Standards

All land use activities within 250 feet, horizontal distance, of the upland edge of a wetland and within 75 feet, horizontal distance, of the normal high-water line of a tributary stream shall also conform to the following applicable shoreland standards:

4.2.1 Agriculture

- A. All spreading of manure shall be accomplished in conformance *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- B. Manure shall not be stored or stockpiled within seventy-five (75) feet horizontal distance, of tributary streams or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- C. Where soil is tilled in a Resource Protection District, or where soil in excess of 40,000 square feet of surface area lying either wholly or partially within the shoreland area is tilled, such tillage shall be carried out in conformance with provisions of a required Conservation Plan that is approved by the appropriate Soil and Water Conservation District. A copy of the plan shall be filed with the Planning Board. Non-conformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
- D. There shall be no tilling of soil within 75 feet horizontal distance of the normal high-water line of any tributary stream or wetland.
- E. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, and coastal wetlands; nor, within twenty-five (25) feet, horizontal distance, of tributary streams, and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

4.2.2 Beach Construction

Beach construction on any coastal wetland, stream, or brook capable of floating a watercraft shall require a permit from the Department of Environmental Protection.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

4.2.3 Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

- A. In any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district. Elsewhere, in any Resource Protection District the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.
- B. Except in areas as described in Section 4.2.3, above, and except to allow for the development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from any tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
1. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
 2. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of Section 4.2.3.B.2 a "well-distributed stand of trees" adjacent to tributary streams, or wetlands, shall be defined as maintaining a rating score of 16 or more in each 25-foot by 50-foot rectangular (1,250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet
Above Ground Level (inches) Points

2<4 in	1
4<8 in	2
8<12 in	4
12 in or greater	8

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 4.2.3.B.2 “other natural vegetation” is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- 4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- 5. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 4.2.3.B does not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- C. At distances greater than seventy-five (75) feet, horizontal distance, from the normal high-water line of any tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared. This provision shall not apply to the Airport Commercial Industrial District.

- D. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- E. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 4.2.3.
- F. Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - 1. Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required unless there is already new tree growth present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - 2. Outside the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with a native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
 - 3. The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.
 - 4. The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

5. The Code Enforcement Officer may require more than one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.

4.2.4

Mineral Exploration and Extraction

Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than 100 square feet of ground surface. A permit from the Planning Board shall be required for mineral exploration which exceeds the above limitations. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 4.2.4, paragraph 3 below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within seventy-five (75) feet, horizontal distance, of the normal high-water line of any tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line, without written permission of the owner of such adjacent property.
- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
- (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
- (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

4.2.5 Piers, Docks, Wharves, Breakwaters, Causeway, Marinas, Bridges and Other Structures Extending Over or Below the Normal High-Water Line of a Tributary Stream or Within a Wetland.

In addition to federal or state permits which may be required for such structures and uses, they shall conform to the following:

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with developed beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- E. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a tributary stream or within a wetland unless the structure requires direct access to the tributary stream or wetland as an operational necessity.
- F. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not

ARTICLE IV.2 SHORELAND ZONING STANDARDS

feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

- G. No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a tributary stream or within a wetland shall be converted to residential dwelling units in any district.
- H. Except in the Airport Commercial Industrial District, structures built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a tributary stream or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

4.2.6 Road and Driveway Construction

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- A. Roads and driveways shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the, tributary stream, or wetland.

On slopes of greater than twenty (20) percent the road and/or driveway setback shall be increased by ten (10) feet, horizontal distance, for each (5) percent increase in slope above twenty (20) percent.

Section 4.2.6.A does not apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline or tributary stream due to an operation necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 4.2.6.A except for that portion of the road or driveway necessary for direct access to the structure.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- B. Existing public roads may be expanded within the legal road right-of-way regardless of their setback from a tributary stream or wetland.
- C. New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district. When a road and/or driveway is permitted in a Resource Protection District, the road and/or driveway shall be set back as far as practicable from the normal high-water line of a tributary stream, or upland edge of a wetland.
- D. Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 4.2.12.
- E. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- F. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- G. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway or ditches. To accomplish this, the following shall apply:
 - 1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

<u>Grade</u> <u>(Percent)</u>	<u>Spacing</u> <u>(Feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60

ARTICLE IV.2 SHORELAND ZONING STANDARDS

16-20

60-45

21+

40

2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
 3. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
 4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- H. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

4.2.7 Soils

All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal shall require a report from a licensed site evaluator, and large scale commercial, industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.

4.2.8 Structures

- A. The lowest floor elevation or opening of all buildings and structures including basements shall be elevated at least two feet above the elevation of the 100 year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identifiable as recent floodplain soils.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- B. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone areas shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the Airport Commercial-Industrial District where lot coverage shall not exceed twenty-five (25) percent for Commercial/Industrial structures and the Gateway Commercial Districts where lot coverage for Commercial/Industrial structures shall not exceed 30 percent..
- D. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a upland edge of wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

4.2.9 Timber Harvesting

Timber harvesting shall conform with the following provisions:

- (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (b) Timber harvesting operations exceeding the 40% limitation in Section 4.2.9.a may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of any tributary stream as defined. At distances greater than fifty (50) feet, horizontal distance, from the normal high- water line all slash shall be disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy- five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of an upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of t his paragraph apply only to a face sloping toward the wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of an upland edge of a wetland.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

4.2.9.1 – Statewide Standards [Effective on effective date established in Section 1.6.B]

(1) Shoreline integrity and sedimentation.

Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of tributary stream banks and channels, shorelines, and soil lying within tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of tributary stream banks and channels, shorelines, and soil lying within tributary streams and wetlands occurs, such conditions must be corrected.

(2) Slash treatment.

Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any tributary stream, or the upland edge of a wetland. Section 4.2.9.1(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.

(a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.

(b) Adjacent to, wetlands:

(i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and

(ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.

(3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:

(a) Option 1 (40% volume removal), as follows:

(i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of streams, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high- water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.
- (b) Option 2 (60 square foot basal area retention), as follows:
 - (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
 - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
 - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
 - (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
 - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
 - (c) Setbacks:
 - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
 - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 4.2.9.1(7) of this rule.
- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
- (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
 - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
 - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- (b) The minimum 100 foot setback specified in Section 4.2.9.1(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 4.2.9.1(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section

ARTICLE IV.2 SHORELAND ZONING STANDARDS

437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 4.2.9.1 (7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (e) Road closeout and discontinuance. Maintenance of the water control installations required in Section 4.2.9.1 (5)(d) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (f) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 4.2.9.1. Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (g) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 4.2.9.1 (5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the tributary stream or

ARTICLE IV.2 SHORELAND ZONING STANDARDS

wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

- (h) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.
- (6) Crossings of water bodies. Crossings of, streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 4.2.9.1: The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
 - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 4.2.9.1. Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 4.2.9.1.
 - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
 - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
 - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in

ARTICLE IV.2 SHORELAND ZONING STANDARDS

shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:

- (i) a map showing the location of all proposed permanent crossings;
- (ii) the GPS location of all proposed permanent crossings;
- (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
- (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.

(f) Water crossing standards. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:

- (i) concentrated water runoff does not enter the stream or tributary stream;
- (ii) sedimentation of surface waters is reasonably avoided;
- (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
- (iv) fish passage is not impeded; and,
- (v) water flow is not unreasonably impeded.

Subject to Section 4.2.9.1 (6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

(g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 4.2.9.1(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the tributary stream is avoided. Such crossing structures must be at

ARTICLE IV.2 SHORELAND ZONING STANDARDS

least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:

1. use of temporary skidder bridges;
2. removing culverts prior to the onset of frozen ground conditions;
3. using water bars in conjunction with culverts;
4. using road dips in conjunction with culverts.

(iii) Culverts utilized in tributary stream crossings must:

1. be installed at or below river, stream or tributary stream bed elevation;
2. be seated on firm ground;
3. have soil compacted at least halfway up the side of the culvert;
4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.

(iv) Tributary stream crossings allowed under Section 4.2.9.1, but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.

(v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
 - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 4.2.9.1(6)(i) below.
 - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
 - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
 - (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
 - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the tributary stream.
 - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:

ARTICLE IV.2 SHORELAND ZONING STANDARDS

1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 4.2.9.1 but in no case shall be less than shown in the following table.

Average slope of land between exposed mineral soil and the shoreline (percent) (feet along surface of the ground)	Width of strip between exposed mineral soil and shoreline
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

4.2.10 Individual Private Campsites

Individual, private campsites not associated with campgrounds are allowed provided the following conditions are met:

- A. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone area, whichever is less, may be permitted.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back seventy-five (75) feet, horizontal distance, from the normal high-water line of water bodies, tributary streams, or the upland edge of a wetland.
- C. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicles.
- D. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- E. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- F. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per calendar year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

4.2.11 Archaeological Sites

Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

4.2.12 Erosion and Sedimentation Control

- A. All activities which involve filling, grading, excavation or other similar activities which result in un-stabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - 1. Mulching and re-vegetation of disturbed soil.

ARTICLE IV.2 SHORELAND ZONING STANDARDS

2. Temporary runoff control features such as hay bales, silt fencing or di version ditches.
 3. Permanent stabilization structures such as retaining walls or riprap.
- B. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
- C. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- D. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

ARTICLE V. ADMINISTRATION

5.1 Creation of Administering Bodies and Agents

5.1.1 Code Enforcement Officer

The Office of Code Enforcement Officer is hereby established. The Code Enforcement Officer shall be appointed annually by July 1st by the Selectmen.

5.1.2 Planning Board

The Planning Board of the Town of Trenton is hereby established in accordance with State law.

5.1.3 Board of Appeals

The Board of Appeals for the Town of Trenton is hereby established in accordance with the provisions of 30-A M.R.S.A. section 2691.

5.2 Permits Required

After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or re new a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

5.2.1 The applicant shall have the burden of proving that the proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

- A. Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Article III.
- B. All applications shall be signed by an owner individual who can show evidence of right, title or interest in the of the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- C. All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- D. If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.

ARTICLE V. ADMINISTRATION

5.2.2 Installation of Public Utility Service

No public utility water district, sanitary district or any utility company of any kind may install services to any new structure unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance, has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

53 Conditional Use Permits

5.3.1 Conditional Use Permits Required

After the effective date of this Ordinance no person shall engage in any use of land requiring a conditional use permit without first obtaining a conditional use permit from the Planning Board.

5.3.2 Procedure for Administering Permits

An application for a conditional use permit shall be accompanied by a fee to be established by the Board of Selectmen.

Within 30 days of the date of receiving a written application, the Planning Board shall notify the applicant in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application.

Following the filing of a complete application, the Planning Board shall notify all abutting landowners of the application and public water supply operators of any applications that lie within their source water protection area. The Planning Board may hold a public hearing on the application within 30 days. If the Planning Board decided to hold a public hearing, the Board shall notify the municipal officers and the abutting landowners, and shall publish a notice of the hearing at least seven days in advance in a local paper of general circulation.

Within 30 days of the public hearing, or within 30 days of the filing of a complete application if a public hearing is not held, the Planning Board shall either approve or deny the permit in writing. Permits shall be approved if the proposed use is found to be in conformance with the provisions of this Ordinance. If the permit is denied, the reasons for denial shall be stated in writing. An appeal to the Board of Appeals from an approval or denial of a permit shall be made within 30 days of the approval or denial.

ARTICLE V. ADMINISTRATION

5.3.3 Permit Application

Applications for conditional use permits shall be submitted in writing on forms provided for this purpose. The Planning Board may require the submission of whatever additional information is necessary to determine conformance with the provisions of this Ordinance. This may include the following information:

- A. A plan of the area showing contours at intervals to be determined by the Planning Board, normal high-water line, ground water conditions, bedrock, slope, and vegetative cover;
- B. Location of existing and proposed building, parking areas, traffic access, driveways, walkways, and landscaping;
- C. Plans of buildings, sewage disposal facilities, and water supply systems;
- D. A soils report identifying the soils boundaries and names with the soils information superimposed upon the plot plan in accordance with the USDA Natural Resource Conservation Service National Cooperative Soil Classification;
- E. the location of any portion of a public water supply source water protection area that lies within the property proposed for development;
- F. A report by a licensing site evaluator indicating the suitability of the soils for a sewage disposal facility;
- G. Important habitat areas identified in the comprehensive plan or the Department of Inland Fisheries and Wildlife Beginning with Habitat program the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Board may be required. This report shall assess the potential impact of the development on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the development will have no adverse impacts on the habitat and the species it supports.
- H. Other pertinent information necessary to determine if the proposed use meets the provisions of the Ordinance.

5.3.4 Permits to be Issued by the Planning Board

ARTICLE V. ADMINISTRATION

The Planning Board shall approve or deny those applications for a Conditional Use Permit on which it is empowered to act as stated in this Ordinance. The Planning Board shall after the submission of a complete application including all information requested, grant a permit if it makes a positive finding based on the information presented to it that, except as specifically exempted in the Ordinance, the proposed use:

- A. Is in conformance with the standards of Article IV. of this Ordinance;
- B. Will not result in unsafe or unhealthful conditions;
- C. Will not result in land, water, or air pollution;
- D. Will not result in undue erosion or sedimentation;
- E. Will avoid problems associated with development in flood hazard areas;
- F. Will not result in adverse impact to spawning grounds, fish, aquatic life, bird, and other wildlife habitat; and
- G. When the request for a permit is for an area within the shoreland zone, the Planning Board shall also make a positive finding that the proposed use:
 - 1. Will conserve shoreland vegetation;
 - 2. Will conserve visual points of access to waters as viewed from public facilities; and
 - 3. Will conserve actual points of public access to waters.

Factors that the Planning Board shall consider in making its findings for A through I above include, but are not necessarily limited to, the following:

- 1. The compatibility of the proposed use with adjacent land uses;
- 2. Access to the site from public roads, including the adequacy of access points, and the possible need for turning and slowdown lanes and other traffic control devices;
- 3. Layout and design of off -street parking and loading/unloading areas, and vehicular circulation on the site;
- 4. The amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system;
- 5. The location of the site with respect to flood hazard areas;
- 6. The impact of the proposed use on the land and adjacent water bodies and the capability of the land and water to sustain such use without degradation;

ARTICLE V. ADMINISTRATION

7. Provisions for control of run-off and drainage;
8. The erosion potential of the site based on degree of slope, soil types, and vegetation cover;
9. The impact of the proposed use on ground water and water supplies; and
10. The impact of the development on municipal services including roads, fire and police protection, solid waste disposal, and other services and facilities.

If a permit is either denied or approved with conditions, the reasons as well as conditions shall be stated in writing. No approval shall be granted for an application involving a structure if the structure would be located in an unapproved subdivision or would violate any other local ordinance or regulation or any State law which the municipality is responsible for enforcing.

5.3.5 Conditions Attached to Conditional Use Permits

In the granting of a conditional use permit, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purpose of this Ordinance. Such conditions may include, but are not limited to, specifications for: increased setbacks; landscaping and screening; sewage disposal and water supply facilities; period of operation; and professional inspection and maintenance. Violation of any of these conditions shall be a violation of this Ordinance.

5.3.6 Expiration of Permit

A conditional use permit or permit issued by the Code Enforcement Officer shall no longer be valid if substantial start in the work or change involved is not commenced within one year of the date on which the permit is issued.

54 Appeals to the Board of Appeals

5.4.1 Variance Appeals

The Board of Appeals may, upon written application, grant a variance from the strict application of the Ordinance under the following conditions:

1. The strict application of the terms of the Ordinance would result in undue hardship to the applicant. The term "undue hardship" shall mean:

ARTICLE V. ADMINISTRATION

- a. that the land in question cannot yield a reasonable return unless a variance is granted;
 - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. that the granting of a variance will not alter the essential character of the locality; and
 - d. that the hardship is not the result of action taken by the applicant or a prior owner.
2. The Board of Appeals, based on clear and convincing evidence presented to it, makes a finding that the proposed use would meet the provisions of Section 5.3.4 (A), except for the standard for which a variance is being sought, and (B) through (I) of this Ordinance.

A variance is authorized only for dimensional requirements. A variance shall not be granted to permit a use or structure otherwise prohibited. A disability variance may be granted in accordance with MRSA 30-A Section 4353, subsection 4-A.

A copy of each variance request within areas subject to shoreland zoning, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.

5.4.2 Administrative Appeals

The Board of Appeals may, upon written application of an aggrieved party and after public notice, hear administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by the Planning Board in the administration of this Ordinance, and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any

ARTICLE V. ADMINISTRATION

order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

Such written application for an appeal shall be made within 30 days of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement. No appeals to the Board of Appeals shall be taken, maintained, or granted from any Planning Board action or inaction or from any other municipal action or inaction arising from any form of municipal consideration of a contract zoning application or denial or approval of a contract zoning application except for a direct appeal to Superior Court upon the final municipal determination. Such appeal to Superior Court shall be in accordance with State law.

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

5.4.3 Appeal to Superior Court

Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.

Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and

ARTICLE V. ADMINISTRATION

other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

Appeal of a reconsidered decision to Superior Court must be made within fifteen (15) days after the decision on reconsideration.

55 Appeal Procedure

5.5.1 Making an Appeal

- A. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any administrative decision of the Code Enforcement Officer or the Planning Board except for enforcement-related matters as described in Section 5.4.2 above. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- B. Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (i) A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
 - (iii) Applicant shall bear the cost of all public notices, mailings, advertising and related expenses.
- C. Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- D. The Board of Appeals shall hold a public hearing on administrative appeal or a variance within thirty-five (35) days of its receipt of an appeal request complete written application, unless this time period is extended by the parties.

5.5.2 Decision by Board of Appeals

- A. A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
- B.. The person filing the appeal shall have the burden of proof.

ARTICLE V. ADMINISTRATION

- C. The Board shall decide all administrative appeals and variance within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- D. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant (and to the Department of Environmental Protection if the appeal is related to shoreland zoning) within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.

56 Enforcement

5.6.1 Nuisances

Any violation of this Ordinance shall be deemed to be a nuisance.

5.6.2 Code Enforcement Officer

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings, structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.
- B. The Code Enforcement Office shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- C. The Code Enforcement Officer shall keep a complete record of all essentials transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.

5.6.3 Legal Actions

ARTICLE V. ADMINISTRATION

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 authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions or violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.

5.6.4 Fines

Any person including but not limited to a landowner, a landowner's agent or a contractor who violates any provision or requirement of this Ordinance after receiving notice of such violation shall be penalized in accordance with Title 30-A, M.R.S.A. Maine Revised Statutes Annotated, Sub section 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. However, in a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

5.6.5 Designation of Enforcement Officer, 30-A MRSA 4452

The Code Enforcement Officer of the Town of Trenton is designated to act on behalf of the Town of Trenton pursuant to 30-A MRSA 4452, in enforcement of land use laws and ordinances, as set forth in 30-A MRSA 4452, and regulated currently under the Maine District Court Rules of Civil Procedure, Rule 80K. This designation of enforcement capacity by said Code Enforcement Officer shall not be exclusive, and shall not prevent other municipal officers or others from being designated by municipal officers to act in an enforcement capacity with respect to these and other ordinances and/or statutes, regulations and provisions of the Town Code. In the absence of the Code Enforcement Officer or his failure to act, the municipal officers are expressly empowered to designate another to act as an Enforcement Officer for purposes of enforcing the provisions of this Ordinance or otherwise.

ARTICLE VI: CONTRACT ZONING

6.1. Authority

Subject to the conditions and/or restrictions and in accordance with the state of Maine Planning and Land Use Laws, 30-A M.R.S.A., Section 4352, Sub-Section 8, property in the town of Trenton in the Gateway, Rural Commercial and Rural Development Districts that meets specified conditions may be rezoned by a process known as contract zoning.

6.2. Purpose

The town of Trenton Land Use Ordinance and Comprehensive Plan provide for the orderly development and use of property. However, situations may arise where the unusual nature or unique location of a project or a proposed use of a property cannot be accommodated under the Land Use Ordinance. Traditional procedures such as granting a variance for dealing with the incompatibility may also prove to be inappropriate. In these special situations, more flexible and adaptable zoning methods may permit a project or use of a property without, at the same time, compromising the intent of the town of Trenton Land Use Ordinance or Comprehensive Plan.

A contract zone, as defined by state statute, provides for property to be rezoned in order to accommodate an owner's intended use or development when land use ordinance requirements cannot be met. A contract zone, when approved, represents a deviation from the Trenton Land Use Ordinance standards, and as such, is subject to the conditions established in the contract agreement and is an amendment to the Trenton Land Use Ordinance. In consideration of a request for contract zoning, the town, in agreement with a property owner, may find it necessary or appropriate to grant or impose conditions or restrictions upon rezoned property that do not apply to other properties in Trenton.

Contract Zoning shall be compatible with the zoning requirements and permitted use standards of the zoning district(s) in which the property to be rezoned lays. All contract zoning proposals shall:

- A. Be consistent with the local growth management program;
- B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones;
- C. occur only in the Gateway, Rural Commercial and Rural Development districts;
- D. apply only to uses that exceed one acre of impervious surface; and

ARTICLE VI: CONTRACT ZONING

E. Only include conditions and restrictions that relate to the physical development or operation of the property.

6.3. Procedure

Initiation of a request for a Contract Zone shall be with the Planning Board during a pre-application conference during which a preliminary sketch plan depicting the general scope of the project is presented. An applicant planning a project shall first consult with the Planning Board to determine whether, in the opinion of the Planning Board, the proposal is consistent with the provisions of the Trenton Land Use Ordinance and the Comprehensive Plan.

A. If the proposal satisfies the objectives of the Comprehensive Plan but does not meet the requirements of the Land Use Ordinance, the applicant may initiate a contract zoning request.

B. If, in the opinion of the Planning Board, the proposed project does not conform to the Trenton Land Use Ordinance and Comprehensive Plan, the Planning Board may recommend that the applicant revise the proposal for acceptability under the governing documents.

C. If the Planning Board finds that, based on the information submitted, the proposal appears suitable for contract zoning per the terms of this ordinance, the applicant shall draw up a preliminary proposal indicating the nature, scope and location of the proposed project. This document shall be presented to the planning board as a preliminary contract zoning application.

D. Any proposal to amend the town's zoning map through the establishment of a contract zone shall be accompanied by a non-refundable fee in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish, which shall be paid at the time the request is filed with the Planning Board. To help recover costs incurred by the town in the review, administration, site inspection, and public notice associated with the contract zone proposal, the following fees and deposit in such amount(s) and for such purpose(s) as the Board of Selectmen may from time to time establish shall be paid by the applicant to the town of Trenton at the time of filing the contract zone proposal:

- (a) Publishing, notification of abutters and related public notice fees;
- (b) Review fee;
- (c) town counsel fees
- (d) Town meeting expense fee; and
- (e) Independent consulting and peer review escrow account to be established with the town.

ARTICLE VI: CONTRACT ZONING

6.3.a. Application to the Planning Board

A. The Planning Board shall schedule the application on the Planning Board agenda upon receipt of the appropriate documents at least 14 days in advance of the scheduled Planning Board meeting.

B. The Planning Board shall post notice of the time, date and place of the planning board meeting twice, the first publication shall be at least 14 days prior to the Planning Board meeting and the second notice shall be published not less than 7 days prior to the Planning Board meeting. The notice shall be published in a newspaper of general circulation in Trenton.

C. In addition, at least 14 calendar days prior to the Planning Board meeting, the Planning Board shall notify property owners within 500 feet of the property lines of the proposed contract zone, with proof of mailing required. Owners of properties shall be those listed in the most recent tax records of the town of Trenton. This notice shall contain information indicating the nature, scope and location of the proposed project, as well as the Planning Board meeting information. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board.

D. The Planning Board shall limit the review of the applicant's proposal to material relevant to the contract zoning provisions contained in the town of Trenton Land Use Ordinance.

E. The application shall include the following:

1. Evidence of right, title or interest in the property;
2. A site plan prepared by a registered engineer or surveyor showing the surveyed boundaries of the parcel and its dimensions, as well as the existing and proposed buildings and structures;
3. A plan showing the location of existing streets and driveways within five hundred (500) feet of the property;
4. A detailed statement of the proposed use of the property and the precise zoning change requested;
5. A statement explaining how it is consistent with the Comprehensive Plan and permitted and existing uses within the original zone;
6. A description of the property's unusual nature or unique location;

ARTICLE VI: CONTRACT ZONING

7. A statement setting forth the conditions or restrictions that the applicant proposes. The Planning Board may propose additional conditions or restrictions.

6.3.b. Review of the application by the Planning Board

A. In its examination to determine the suitability of a proposal for contract zoning, the Planning Board shall consider, among other factors, the following:

1. The reason why the applicant is requesting a contract zone agreement;
2. Compatibility and consistency with the Land Use Ordinance;
3. Compatibility and consistency with the Comprehensive Plan;
4. The implications of the proposed project, or the use of the property, for owners of surrounding properties and the neighborhood in general;
5. The short and long-term benefits and costs to the town of Trenton and the interests, safety, and general welfare of its citizens;
6. Input, where appropriate, from the general public, town officials and town boards and committees;
7. Unusual nature or location of land; and
8. Proposed conditions of approval are sufficient to meet the intent of this ordinance and other land use ordinances and regulations in Trenton.

B. When determining the terms of a contract zoning agreement, the Planning Board may consider public comments and, among other factors, the following:

1. Limitations on the number and type of uses permitted;
2. Restrictions on the scale and density of the project, including the height, lot coverage and other bulk and space provisions;
3. Limitations on the hours and conditions of operation;
4. Specifications for the design, location, layout, and use of the buildings and other improvements;
5. Schedules for the commencement and completion of construction;
6. Performance guarantees securing completion and maintenance of improvements and guarantees against defects;

ARTICLE VI: CONTRACT ZONING

7. Preservation and maintenance of natural areas and features, including open space, views and buffers;
8. Protection of land and water resources;
9. Preservation and protection of historic and archaeological sites;
10. Contribution toward the provision of municipal services and infrastructure required by the project and other projected municipal costs associated with the project.
11. provisions for enforcement and remedies for breach of any condition or restriction, including the timing of the effective date of the change and its repeal should conditions not be met;
12. the dedication or conveyance of property for public purposes, including but not limited to, streets, easements, parks and utility systems.

C. If the Planning Board and the applicant do not reach an agreement on the terms of the contract zoning application, the application shall be denied and the request of the applicant for a contract zoning amendment is terminated. There shall be no appeal to the Board of Appeals if a contract zoning application is terminated.

6.3.c. Joint review by the Planning Board and Board of Selectmen

If the Planning Board, reaches an agreement with the applicant, the Planning Board shall initiate within 30 days a joint review of the proposed contract zoning agreement with the Board of Selectmen and the applicant. The purpose of the joint review is to familiarize the Board of Selectmen with the proposed contract zoning agreement and to give the selectmen the opportunity to view the proposed contract zoning agreement. The review shall include the determination that:

- A. The town's interest are adequately protected and served by the proposed contract zoning agreement;
- B. The costs to the town do not exceed the benefits.

If the Planning Board and Selectmen have reached agreement on the terms and wording of the proposed contract zoning agreement, the applicant shall submit a letter confirming the applicant's agreement on the terms and wording of the proposed contract zoning agreement. If the Planning Board and selectmen do not agree on the terms and wording of the proposed contract amendment, the application is denied and the applicant's request for a contract zoning

ARTICLE VI: CONTRACT ZONING

amendment is terminated. There shall be no appeal to the Board of Appeals if a contract zoning application is terminated.

6.3.d. Continuation of Planning Board review of the proposed Contract Zoning Agreement

The Planning Board shall continue its review and take a formal vote to submit the proposed contract zoning agreement to a public hearing. The Planning Board shall schedule a public hearing no later than 30 days following its vote to submit the proposed contract zoning agreement to public hearing. The public notice and hearing shall follow the procedure below:

A. Notice of the public hearing shall be posted in the town clerk's office at least 14 days prior to the public hearing. The notice shall be published by the applicant at least two times in a newspaper of general circulation within the Town. The date of the first publication shall be at least 7 days prior to the public hearing. Notice shall be sent to the last known address of owners whose properties are within 500 feet of the property lines of the proposed contract zone, with proof of mailing required. This notice shall contain the conditions and restrictions together with a map showing the contract zoning property. Failure of any property owner to receive a notice shall not necessitate another hearing or invalidate any action by the Planning Board.

B. The public hearing shall be conducted by the Planning Board chair or acting chair.

C. A record of the public hearing shall be made for public record.

6.3.e. Final review by Planning Board

Following the public hearing, the Planning Board shall review all comments and recommendations from the public hearing and make changes where deemed necessary. In this final review, the Planning Board shall determine whether the proposed contract zoning agreement:

A. Is consistent with the Town of Trenton Land Use Ordinances;

B. Is consistent with the Town of Trenton Comprehensive Plan;

C. Establishes rezoned areas that are consistent with the existing permitted uses of the original zone(s);

D. Includes only such conditions and restrictions that relate to the physical development or operation of the property.

ARTICLE VI: CONTRACT ZONING

If any substantive changes are made in the proposed contract zoning agreement, another public hearing shall be held. If there are no substantive changes, then, upon final review by the Planning Board, the proposed contract zoning shall be placed as a warrant article for town meeting. All costs related to scheduling and holding the town meeting shall be borne by the applicant.

6.3.f. Town meeting approval

- A. The Board of Selectmen shall then place the proposed contract zoning agreement on the warrant for a town meeting.
- B. The proposed contract zoning agreement may be approved by the town meeting with a majority vote.
- C. If the proposed contract zoning agreement is not approved by the town meeting, it may not be resubmitted for a minimum of two years after the date of disapproval.

6.3.g. Administration

- A. Upon approval of the contract zoning agreement by the town meeting, the Trenton Land Use Ordinance and Trenton Zoning Map shall be amended to reflect the incorporation of the contract zone. Conditions and restrictions pertaining to the contract zone shall also become part of the record. If deemed appropriate by the Planning Board, conditions shall also be recorded through measures such as, but not limited to, deed restrictions, covenants and easements.
- B. Effective date of contract zoning agreement. The date of the signing of the contract zoning agreement shall occur no later than 30 days following the date of the town meeting that the contract zoning agreement was approved. Subject to approval by state and federal agencies, the contract zoning agreement shall be deemed to become both effective and binding when signed. Its terms, conditions and restrictions together with the Trenton Land Use Ordinance, any other applicable Trenton ordinances, codes or regulations, and Town of Trenton Comprehensive Plan shall thereafter govern the proposed project and/or use.
- C. Violation and Termination of Contract Zoning Agreement
 - 1. If the CEO and/or other entity charged with enforcement in the contract zoning agreement find the developer or property owner, to be in violation of the terms of the contract zoning agreement, enforcement shall follow the procedure established in Section 5.6 the Trenton Land Use Ordinance and any other specific enforcement measures contained in the contract zoning agreement.

ARTICLE VI: CONTRACT ZONING

2. If the developer or property owner does not meet the time limits prescribed by the contract zoning agreement, or abandons the project, the contract zoning agreement shall become null and void. If this occurs, the property shall revert to the underlying or former zoning and shall be made to comply with the requirements for said zone.

6.4. Severability

Should any section or provision of the contract zoning provisions contained within the town of Trenton Land Use Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section, article or provision of the town of Trenton Land Use Ordinance.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

7.1 Construction of Language

In this Ordinance, certain terms or words shall be interpreted as follows:

The word "person" and "applicant" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural includes the singular; the word "shall" is mandatory, and the word "may" is permissive; the words "used" or "occupied" include the words "intended", "designed", or "arranged to be used or occupied", the word "building" includes the word "structure", and the word "dwelling" includes the word "residential", the word "lot" includes the words "plot" or "parcel". In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control. Terms not defined shall have the customary dictionary meaning.

7.2 Definitions

For the purpose of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

Abutter: The owner of any property with one or more common boundaries, or across the street or stream from the property involved in an application or appeal.

Access Drive: A private roadway primarily intended to transport vehicles from a public or private way to a point within private property.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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.

Agriculture: 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 ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

Alteration: A change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing in height; or the moving from one location or portion to another.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Aquaculture: The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Auto Repair Garage: A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service, such as body, frame, or fender straightening and repair; over-all painting and under-coating of automobiles.

Auto Service Station: A place where gasoline, or any other engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and the servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.

Basal Area: The area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Base Flood: The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.

Basement: Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public by the owner for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner. Otherwise, it shall be classified as a hotel/motel. There shall be no provision for cooking in any individual guest room.

Boarding House or Tourist Home: Any dwelling in which lodging is offered for compensation to three or more persons either individually or as families with or without meals.

Boat Launching Facility: A facility designed primarily for the launching and landing of watercraft, and which may include an access ramp, docking area, and parking spaces for vehicles and trailers.

Building: A structure enclosed with exterior walls or firewalls, built, erected and frames of component structural parts, designed for the housing, shelter, enclosure and support of individuals, animals or property of any kind.

Building Height: The vertical distance between the mean elevation of the finished grade along the front of the building and the highest point of the roof.

Bureau: State of Maine Department of Conservation's Bureau of Forestry.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Business and Professional Offices: A building in which there is located the office of an architect, accountant, dentist, doctor of medicine, lawyer or other professional, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

Campground: Any area or tract of land to accommodate two (2) or more parties in temporary living quarters, including, but not limited to tents, recreational vehicles or other shelters.

Canopy (tree) (for building canopy see structure): The more or less continuous cover formed by tree crowns in a wooded area.

Cluster Development: The development, according to an approved plan, of a large tract of land (minimum 15 acres in size) where three (3) or more buildings are built simultaneously on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

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 which is subject to tidal action during the highest annual tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Code Enforcement Officer: A person appointed by the municipal officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector and the like where applicable.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Comprehensive Plan: A document or interrelated documents adopted by town of Trenton containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and strategies for implementation of the policies.

Conditional Use Permit: A permit authorized by the Planning Board for a conditional use. A conditional use permit may be issued only after the applicant has followed the procedures and complied with the standards of this Ordinance.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Contract Zoning: A change of zoning district designation as provided in 30-A M.R.S.A. § 4352 in which conditions may be proffered by an applicant and attached to a change in district designation by means of a contract entered into by the applicant and the town and filed in the Hancock County Registry of Deeds. Such zoning must comply with statutory requirements for consistency with the town's Comprehensive Plan.

Convenience Store: A small, neighborhood establishment retailing food and related commodities, excluding storage or sale of petroleum products. It may contain a takeout window and no more than 10 seats inside.

Coverage: See Lot Coverage

Cross-sectional area: The cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH: The diameter of a standing tree measured 4.5 feet from ground level.

Density: The number of dwelling units per area of land.

Density Bonus: The granting by the Planning Board of additional development capacity in exchange for the provision of a public benefit or amenity).

Development: Any land use activity directed toward using, reusing, or rehabilitating air space, land, water or other natural resources.

Development (shoreland zone): A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

Dimensional Requirements: Numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage and height.

Disability: Any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Disruption of shoreline integrity: The alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

District: A specified portion of the Municipality, delineated on the Official Land Use Districts Map, within which certain regulations and requirements or various combinations thereof apply uniformly under the provisions of this Ordinance.

Driveway: A vehicular access-way less than five hundred (500) feet in length serving 2 single-family dwellings or less.

Duplex: See Dwelling, Two-Family or Duplex.

(Dwelling) Apartment: means a dwelling unit to be occupied by one family grouping, consisting of a room or suite or two or more rooms, in a permanent residential building or in a permanent residential portion of a non-residential building, not to include hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities.

(Dwelling) Single Family, Single Family Dwelling, or Single Family Dwelling Unit: means a fixed, freestanding, permanent residential building containing no more than one dwelling unit, which is designed, constructed and equipped for occupation by one family grouping. This term shall include a manufactured housing unit but not hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities. This term shall also not include campers, travel trailers, recreational vehicles or travel/vacation/seasonal "tourist cabins" constructed and/or managed for commercial rental unless the unit(s) are located in the Commercial District and meet all applicable local and State requirements for commercial land use.

(Dwelling) Multi-Family or Multi-Family Dwelling: means a fixed freestanding, permanent, residential building, or residential portion of a non-residential building, containing more than two but no more than eight separate apartments, each to be occupied by one family grouping, and not including hotels, motels, or other lodging places which provide travel/vacation/seasonal facilities.

(Dwelling) Two-Family or Duplex: means a structure on a single lot containing two dwelling units, each of which is totally separated from the other by an unpierced wall extending from ground to roof or by an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units. This term does not include hotels, motels, or other lodging places which provide travel/vacation/seasonal families.

Dwelling Unit: means an enclosed area designed, constructed and equipped for residential use by one family grouping exclusively with separate floor areas containing separate, distinct, and

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

identified facilities for cooking, eating, bathing/toilet, sleeping, and general indoor residential activities in the respective floor areas, all of which is located in a permanent residential building or in a permanent residential portion of a non residential building. Specifically not included are hotel, motel, or other lodging places which provide travel/vacation/seasonal facilities.

Dwelling Unit (Shoreland Zone): a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Earth: Topsoil, sand, gravel, clay, peat, rock or other minerals.

Essential services: Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Establishment: A place of business carrying on operations which are physically separated and distinct from those of any other place located on the same lot.

Expansion of a Structure: An increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached: decks, garages, porches and greenhouses.

Expansion of Use: The addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Floor Area, Gross: The sum, in square feet, of the floor area of all roofed portions of a building, as measured from the interior faces of the exterior walls. Floor area in the shoreland zone area shall include any unenclosed areas of a structure such as porches or decks.

Floor Area, Ground: The sum, in square feet, of the floor area of the first or ground floor of a building, as measured from the interior faces of the exterior walls.

Forest Management Activities: Timber cruising and other forest resource evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other forest harvesting, regeneration of forest stands, and other similar associated activities, exclusive of timber harvesting and the construction, creation, or maintenance of roads.

Forested wetland: A freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand: A contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, including but not limited to including basements, slabs, sills, posts or frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage, Shore: - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Frontage, Street: The horizontal distance straight line between the intersections of the side lot lines with the front lot line.

Functionally Water-Dependent Uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities (excluding recreational boat storage buildings), finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to coastal or inland waters.

Grade: In relation to buildings, the average of the finished ground level at the center of each wall of a building.

Ground cover: small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.

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 to a structure which have no floor area.

Home Occupation or Profession: An accessory use generally of a service character customarily conducted within a dwelling unit or accessory structure by a resident thereof, which is clearly secondary to the use of the dwelling unit for residential purposes and does not change the character thereof, and which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure: any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual Private Campsite: An area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

Institutional: a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Industrial Park: An area of land developed exclusively to industrial and associated uses.

Impervious Surface: The area that is or will be covered by:

- (1) buildings and associated constructed facilities,
- (2) a low-permeability material such as asphalt or concrete, and/or
- (3) gravel roads and parking areas that will be compacted through use or design so as to reduce their permeability.

Common impervious areas include, by way of example, rooftops, walkways, patios, driveways, parking lots, storage areas, concrete or asphalt paving, compacted gravel, packed earthen materials, macadam, and other surfaces that impede the natural infiltration of stormwater.

Kennel: An establishment in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained for a fee.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Landscaping: The combination of natural elements such as trees, shrubs, groundcovers, vines, or other organic and inorganic materials, which are installed for purposes of creating an attractive and pleasing environment, screening unsightly views, reducing environmental impacts, and filtering matter from air.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

"Cultivated Landscaping" shall mean manmade planted areas that require pruning, fertilizing and tending on a more frequent basis.

Light Manufacturing: The fabrication or processing of materials into the finished product, the weight of which shall not exceed three hundred (300) pounds.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Loading Space: An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

Local Growth Management Program: "Local Growth Management Program" shall mean the town has adopted a growth management program that certified by the Executive Department, State Planning Office, under 30-A M.R.S.A. § 4347-A.

Lot: A parcel of land in single ownership or leasehold having distinct and defined boundaries described in a deed, plot, or similar legal document.

Lot Area: The total horizontal area within the lot lines minus land below the normal high-water line of a tributary stream or the upland edge of a wetland, and areas beneath a road serving more than two lots.

Lot Coverage: The percentage of the lot covered by all buildings and impervious surfaces such as paved roads and parking lots, additionally, in the shoreland zone, lot coverage includes all non-vegetative surfaces.

Lot Depth: The mean horizontal distance between the front and rear lot lines, measured within the lot boundaries.

Lot Lines: The property lines bounding a lot as defined below:

Front Lot Line: The line separating the lot from a road and ordinarily regarded as the front of the lot.

Rear Lot Line: The lot line generally opposite the front lot line.

Side Lot Line: Any lot line other than the front lot or rear lot line.

Lot of Record: A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds or in common use by municipal officials.

Lot, Shorefront: Any lot abutting a tributary stream or wetland.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Lot Width: The mean horizontal distance between the side lot lines measured within the lot boundaries.

Marinas: A business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market Value: The estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral Exploration: Hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral Extraction: Any removal, other than for specimens or samples, of sand, gravel, topsoil, peat or other minerals.

Minimum lot width: the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

Multi-unit Residential: See 'Dwelling(Multi-Family)'.

Municipal Facility: A structure which is open to the public and which is owned by the Town of Trenton and operated under its supervision.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming Lot: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

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 predominantly aquatic and predominantly terrestrial land.

Normal Maintenance and Repair: Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

Overlay Land Use District: An overlay land use district is a mapped zone that imposes additional requirements upon the underlying land use district. In those areas where an overlay land use district exists, land is placed simultaneously into two land use districts and development must comply with the conditions and requirements of both districts.

Pedestrian Walkway: A surfaced walkway, separate from the traveled portion of a public or private right-of-way, parking lot or driving aisle.

Person: An individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland:

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal Structure: A building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal Use: A use other than one which is wholly incidental or accessory to another use on the same premises.

Public Facility: Any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

Public Water Supply: any publicly or privately-owned system of pipes, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption; if such system has at least 15 service connections or serves at least 25 individuals daily at least 60 days out of the year.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Recent Floodplain Soils: The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

Reconstruction (outside shoreland zone): The restoration, remodeling or re building of a non-conforming structure, whether necessitated by deterioration, obsolescence, casualty or other occurrence, where the costs of such work equal or exceed the value of the property in its existing condition.

Recreational Facility: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

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, 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.

Replacement System: A system intended to replace: 1) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2) any existing overboard wastewater discharge.

Residual basal area: The average of the basal area of trees remaining on a harvested site.

Residual Stand: A stand of trees remaining in the forest following timber harvesting and related activities

Retail Establishment: Any business, housed in a permanent structure, engaged primarily in the sale of goods and/or services to the ultimate consumer for direct consumption and/or use, but not for resale. Includes any enclosed restaurant, cafe, shop or store for the sale of retail goods, but shall exclude any free-standing (non-permanent) retail stand, trailer, or similar uses.

Riprap: Rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Private Road: A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

Public Road: A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

Salt Marsh: Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt Meadow: Areas of coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Screening: A hedge or buffer strip at least five (5) feet wide, consisting of densely planted shrubs or trees at least four (4) feet in height at the time of planting, and eventually reaching a mature height of at least six (6) feet in height, but not exceeding eight (8) feet, which provides an effective visual barrier.

Service Drop: Any utility line extension which does not cross or run beneath any portion of a water body that:

1. in the case of electric service:
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service:
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Service Establishment: Any business which provides a service for hire by others, conducted through the application of some specialized knowledge, training, skill, or talent, or through the employ of physical exertion or other effort in the performance of some special action or work not of a manufacturing nature.

Setback (shoreland): The nearest horizontal distance from the normal high-water line of a tributary stream or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Shoreland zone: The land area located within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; or within 250 feet of the upland edge of a freshwater wetland.

Shoreline: the normal high-water line, or upland edge of a freshwater or coastal wetland.

Shrubs: A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base, usually not more than 10 feet in height at its maturity.

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

Source water protection area: the area that contributes recharge water to a surface water intake or public water supply well as determined by the Maine Drinking Water Program..

Structure: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system -- any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained Slope: A change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters: all waters affected by tidal action during the maximum spring tide.

Timber Harvesting: The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 4.2.3, *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Tree: Any self-supporting woody perennial plant which has a DBH (diameter at breast height) of two inches or more and which normally attains an overall height of at least 15 feet at maturity, usually with one main stem or trunk and many branches.

Tributary stream -- means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

NOTE: Water setback requirements apply to tributary streams within the shoreland zone.

Upland edge of a wetland - the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) foot) tall or taller.

Use: The purpose for which land of a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Conditional Use: A use permitted only after review and approval by the Planning Board. A conditional use is a use that would not be appropriate without restriction but which, if controlled under the provisions of this Ordinance, would promote the purpose of this Ordinance.

Conforming Use: A use of buildings, structures or land which conforms with all applicable provisions of this Ordinance.

Open Space Use: A use which does not disturb the existing state of land except to restore the land to a natural condition.

Permitted Use: A use which may be lawfully established in a particular district, provided it conforms with all the requirements, standards and regulations of such district.

Variance: A relaxation of terms of this ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Vegetation: all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

Vegetation, native: Any plant species with a geographic distribution indigenous to all or part of the State of Maine.

Velocity zone: an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls measured from the exterior faces of these walls and roof.

Warehouse: Includes warehouse, wholesale establishment, bulk storage, or bulk sales outlet.

Water crossing: any project extending from one bank to the opposite bank of a tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland: A freshwater or coastal wetland.

Wholesale Establishment: Any business, housed in a permanent structure, engaged in the sale of goods in large amounts to retailers or jobbers, rather than directly to customers.

Wildlife: All vertebrate species (animals with backbones), except fish.

Wildlife Management Practices: Activities engaged in for the exclusive purpose of management of wildlife populations by manipulation of their environment for the benefit of one or more species. Such practices may include, but not be limited to, harvesting or removal of vegetation, controlled burning, planting, impounding water, controlled hunting and trapping, relocation of wildlife, predator and disease control, and installation of artificial nesting sites, provided that such activities are specifically controlled and designed for the purpose of managing such species.

Yard: The area of land on a lot not occupied by buildings.

Front Yard: The open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

Rear Yard: The open, unoccupied space on the same lot with the principal building between the rear lot line and the nearest part of any building on the lot, and extending the entire width of the lot.

ARTICLE VII. CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Side Yard: The open, unoccupied space on the same lot with the principal building between a side lot line and the nearest part of any building on the lot, extending from the front yard to the rear line or a front line shall be deemed a side line.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

**CONTRACT ZONING AGREEMENT: Town of Trenton and
Maine Department of Transportation**

This is a Contract Zoning Agreement made this 9th day of June, 2009 by and between the Inhabitants of the Town of Trenton, a municipal corporate body, located in the County of Hancock, State of Maine, (hereinafter "the Town" or "municipality") and Maine Department of Transportation, State of Maine, Augusta, Maine (hereinafter "MaineDOT"). This Agreement is Pursuant to Contract Zoning Article VI, of the Trenton Land Use Ordinance, amended July 10, 2007 (contract zoning) pursuant to Title 30-A, Section 4352(8), Maine Revised Statutes Annotated; the Ordinance was most recently amended October 28, 2008.

WHEREAS, MaineDOT purchased a parcel of real estate located along Route 3, Trenton, Hancock County, Maine, consisting of approximately 152 acres and described in deed from Friends of Acadia, Inc., to Maine Department of Transportation recorded with the Hancock County Registry of Deeds in Book 4913, Page 232 ("the Property"); and

WHEREAS, the Property is located along the westerly side of Route 3 in an undeveloped and open area with high visibility and easy access by the volume of daily Route 3 traffic traveling toward Mount Desert Island for work purposes and the volume of seasonal Route 3 traffic traveling toward Mount Desert Island and Acadia National Park ("ANP") for recreational purposes; and

WHEREAS, MaineDOT desires to develop the Property as the Acadia Gateway Center at Crippens Creek ("Acadia Gateway Center" or "Project") and has proposed such development of the Project in four Phases with immediate development of Phase I to be followed closely by Phase II of the Project. Phases III and IV are then to follow in sequence. Phase I is an access road, bus maintenance facility for Downeast Transportation/Island Explorer, and park-and-ride lot. Phase II is a multi-modal transportation center, busway, ANP sales and information and parking. Phase III is the National Park Service Welcome Center for ANP with projected completion by 2012. Phase IV is an addition of theaters to the Welcome Center as well as an area for possible retail, concessions, and community use. Both Phases I and II, planned for immediate development, are integral parts of the overall proposed Acadia Gateway Center with a mix of uses. Most of the land areas planned for Phases I and II are located in the Rural Development District. Some of the land areas planned for Phases III and IV are located in the Rural Development District and some in the Rural Commercial District. Some proposed land uses within Phases I, II, III, and IV are not permitted in either the Rural Development District or the Rural Commercial District; and

WHEREAS, more particularly, the main portion of the Property proposed for development as Phase I (the bus maintenance facility for Downeast Transportation/Island Explorer and the park-and-ride lot) is located in the Rural Development District and the portion of Phase II proposed for the multi-modal transportation center also appears to be partially located in the Rural Development District. Under the Trenton Land Use Ordinance ("Ordinance") such transportation facilities are neither permitted nor conditionally permitted uses within the Rural Development District. Other portions of

CONTRACT ZONING AGREEMENT

the Property nearer Route 3 are within the Rural Commercial District which permits some proposed land uses and does not permit other proposed land uses in the Project; and

WHEREAS, MaineDOT has requested a re-zoning of the part of the Property's Rural Development District and Rural Commercial District proposed for development to allow development of proposed transportation facilities in Phases I and II of the Project and all other proposed land uses not currently permitted. MaineDOT requested such re-zoning within the context of and as an integral part of the entire Project in its Contract Zoning Application and detailed plans and specifications submitted to the Trenton Planning Board in February 2009 ("MaineDOT Application"). The MaineDOT Application for the Acadia Gateway Center specified the closely connected and interrelated nature of all four Phases of the Project with an outline and explanation of the Project in the cover letter for the MaineDOT Application to the Chair of Trenton Planning Board dated February 25, 2009. This cover letter is a part of the MaineDOT Application and a copy of the letter is annexed hereto and incorporated herein as **Attachment 1**; and

WHEREAS, the proposed Acadia Gateway Center Project for the Property with all four Phases as proposed in the MaineDOT Application will offer Maine residents and visitors significant facilities and activities not otherwise available in Trenton; and

WHEREAS, such re-zoning to permit development of the Project with all four Phases is consistent with the goals of the Trenton Comprehensive Plan as outlined in MaineDOT's cover letter as a part of the MaineDOT Application (Attachment 1); and

WHEREAS, the Trenton Planning Board and Trenton Board of Selectmen, pursuant to Contract Zoning Article VI of the Trenton Land Use Ordinance and 30-A MRSA & 4352(8) ("Contract Zoning Requirements"), after notice, lengthy discussion, and due analysis and deliberation of the Project and the Contract Zoning Requirements by each board, each has recommended the re-zoning of the Property as requested in the MaineDOT Application to allow development of the Project with all four Phases; and

WHEREAS, the Inhabitants of the Town of Trenton, by Town Meeting vote, has determined that the re-zoning is pursuant to and consistent with the Town's Comprehensive Plan and has authorized the Trenton Board of Selectmen to execute this Contract Zoning Agreement as the means of documenting the Agreement of the parties and of accomplishing the MaineDOT requested re-zoning to allow full development of the Project on the Property. This Town Meeting vote occurred on May 30, 2009.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

A. Land Use Considerations.

1. Map

CONTRACT ZONING AGREEMENT

The Town will amend the Zoning Map of the Town of Trenton, as amended and on file at the Trenton Municipal offices and incorporated by reference in the Land Use Ordinance by adopting the map change amendments shown on **Attachment 2**.

2. Primary Use

The Contract Zoning change for this Property is granted and conditioned on the primary use of the Property as the Acadia Gateway Center, complete with the initiation of the building permit application for the transportation facilities of Phase I shortly after the execution of this agreement by the parties and the initiation of the building permit application for the transportation facilities of Phase II shortly after approval of the currently proposed work plan of MaineDOT by the Maine Legislature and the securing of funding therefor, and to be followed with building permit applications for the additional facilities of Phases III and IV. All Phases of the Project shall be in accord with the Contract Zoning Application and detailed plans and specifications for the Project submitted by MaineDOT to the Trenton Planning Board in February 2009 and in accord with future, final governmental permits when issued to authorize the beginning of construction of the Project. The transportation facilities of Phases I and II must be operated as integral elements of the overall Acadia Gateway Center as the primary use for the Contract to remain valid.

3. Permitted Uses in the Re-zoned Area within the Rural Development District

MaineDOT is authorized to construct a facility to be known as the Acadia Gateway Center at the Property, to be constructed as Phases I-IV, in compliance with the MaineDOT Application, as approved, and consisting of the following uses in the re-zoned area, but subject to MaineDOT obtaining final municipal building permits and other required governmental authorizations for each Phase of the Project:

- (1) The approved Acadia Gateway Center as the overall primary use.
- (2) Bus maintenance and garage facilities with access road for operation under lease to Downeast Transportation/Island Explorer or other bus service provider(s) to provide public bus transportation to at least the Ellsworth/Trenton/Mt. Desert Island area ("bus service" or "bus service provider") along with a park-and-ride lot to provide parking for bus service users and other commuters.
- (3) Intermodal transportation center with offices for management and dispatch of the bus service provider and public access facilities and areas for bus service users and other commuters.
- (4) Parking facilities for the bus service provider staff and bus service users and other commuters.
- (5) Accessory uses directly related to the above uses; examples include, without limitation, public areas, structures for picnics, and other similar activities or for pet rest and exercise.

CONTRACT ZONING AGREEMENT

(6) The land areas for Phase III and Phase IV appear to be within the Rural Commercial District zone. The main land use categories for Phases III (the National Park Service Welcome Center for ANP) and Phase IV (addition of heaters to the Welcome Center as well as an area for possible retail, concessions, and community use) appear to be included as conditional uses within the Rural Commercial District. To the extent, however, that any part of Phase III or Phase IV of the Project is within the Rural Development District or within the Rural Commercial District, and the specific land use proposed in the MaineDOT Application is not permitted within the applicable district, then such use as proposed in the MaineDOT Application is approved and authorized as part of this Contract Zoning Agreement.

4. **Prohibited Uses**

Uses and facilities not consistent with the uses and facilities authorized herein are prohibited uses unless authorized as a permitted or conditionally permitted use in the existing applicable zoning district.

5. **Project Access and Egress** Access to and egress from the Acadia Gateway Center shall be directly from and to Route 3 as specified in the MaineDOT Application.

6. **Solid Waste Disposal:** MaineDOT shall be responsible for all solid waste collection, recycling, and disposal for any and all Phases of the Project at no cost to the Town of Trenton. The current plan for payment of all disposal fees is through direct billing of ANP by the disposal site owner as is reflected in the letters attached as **Attachment 3**.

7. **Subsurface Wastewater Disposal System and Sludge Disposal:** MaineDOT shall be responsible for all wastewater disposal for the Project, on-site or otherwise, as authorized by municipal or other governmental permit for each Phase of Project development at no cost to the Town of Trenton for any aspect of the wastewater disposal system including without limitation disposal system construction, maintenance, repair, or sludge disposal.

8. **Other Land Use Issues:** All other land use issues and site standards and conditions for implementation of the Project as may be required by law shall be determined by the Trenton Planning Board as part of its review and approval of subsequent MaineDOT permit applications for specific authorization to build each portion of the Project.

9. **Zone Limitation**

This is the sole zoning for the portion of the Property within the Rural Development District and the Rural Commercial District, except as otherwise set forth in the restrictions, provisions and conditions within this Agreement, all other requirements of the underlying Rural Development District or Rural Commercial District shall apply. The restrictions, provisions and conditions within this Agreement are essential parts of this re-zoning, shall run with the Property and any part thereof, shall bind MaineDOT, its successors and assigns and shall be for the benefit of and be enforceable by the Town of Trenton. If Phases I and II of the Project are not substantially completed within five years of the effective date of this Agreement and MaineDOT is not actively pursuing good faith

CONTRACT ZONING AGREEMENT

efforts to complete the Project, the re-zoning authorized herein shall be voidable by court order unless, in the court's judgment, the overall circumstances of the Project can be shown to make an enforceable order of specific performance, which may be requested of the court by either party, the most appropriate remedy.

B. Other Conditions and Restrictions Not Specifically Tied to Land Use Requirements

The below conditions and restrictions are essential parts of the re-zoning voted by the Inhabitants of the Town of Trenton, shall run with the property as appropriate, shall bind MaineDOT, its successors-in-interest and assigns including without limitation its agents and Tenants of the property or any part thereof, and shall inure to the benefit of and be enforceable by the Town of Trenton:

1. **Promote Use of Route 3:** As is implicitly recognized in the Project for Acadia Gateway Center, the parties recognize that the main route for vehicle traffic passing through Trenton going to or from Mount Desert Island for work or recreation is Route 3. A key objective of the Project is to promote such use of Route 3 for traffic destined for Mount Desert Island and to provide an attractive bus facility within the Project to divert a substantial portion of the privately owned vehicle drivers and passengers onto public transportation. The parties, therefore, agree to actively promote this objective of the Project and to undertake reasonable, prudent, and appropriate measures to that end including, but not limited to, maintaining the primary Project entrances and exits directly from and to Route 3.
2. **Route 3 as a Federal Scenic Byway or Maine Scenic Byway:** Trenton now has a pending application with the MaineDOT and US Department of Transportation ("USDOT") for "Federal Scenic Byway" designation by the USDOT of Route 3 from the Ellsworth-Trenton line southerly to the Trenton-Bar Harbor. The parties do not know what effect signatures on this Agreement and moving forward with the Project will have on USDOT and its eventual decision on the pending application. While the application and decision are pending, MaineDOT agrees to use best efforts to encourage such Federal designation. MaineDOT further agrees, as a backup to a possible long delay in the Federal decision or disapproval of the application, to undertake all preparations necessary to designate this section of Route 3 as a "State of Maine Scenic Byway". If no Federal decision establishing this section of Route 3 as a Federal Scenic Byway is received by MaineDOT and the Town on or before January 1, 2010, or at anytime earlier, the Town may submit an application for the designation of this section of Route 3 as a "State of Maine Scenic Byway" and MaineDOT shall then proceed to complete the designation process and to make a good faith effort to assist the Town in receiving the designation of this section of Route 3 as a "State of Maine Scenic Byway".
3. **Assistance for Trenton as Home of Acadia Gateway Center for Acadia National Park:** As the Project moves forward, MaineDOT agrees to use its best efforts to encourage its planned tenants, Downeast Transportation and Acadia National Park, to work with the Town of Trenton to plan for and implement further projects to help the Town assume its new role as the home of the Acadia Gateway Center for Acadia National Park.

C. Local Participation and General Provisions:

CONTRACT ZONING AGREEMENT

1. Local Participation:

(1) Local Participation in Acadia National Park Information Center: The parties recognize the importance of the Trenton Chamber of Commerce cooperation on and assistance in the Town acceptance of the Project. MaineDOT and the Town agree to use the best efforts of each to promote the continuation of the more than 25 years of partnership between Acadia National Park and the MDI Regional Chambers of Commerce, of which the Trenton Chamber of Commerce is a member, in providing visitor information at the existing ANP Visitors' Centers. MaineDOT agrees to promote such continuing partnership in its own policies and memoranda to the appropriate extent and to use its best efforts to encourage Acadia National Park, as a tenant of MaineDOT in the Acadia Gateway Center, to continue such partnership, including the involvement of Trenton Chamber of Commerce, in the new National Park Service Welcome Center for ANP within the Acadia Gateway Center.

(2) Participation in Phase IV Planning for Retail & Concessions: MaineDOT also agrees to use its best efforts to encourage Acadia National Park, as a tenant of MaineDOT in the Acadia Gateway Center, to involve the Trenton Chamber of Commerce as a local participant and stakeholder in planning and implementing retail and concession activities in the Project (now planned for Phase IV).

(3) Community Use of Specific Facilities: Local public use of planned theaters, other public facilities, and the Property's undeveloped land areas as trails or other passive recreational uses has been a continuing theme in the planning and public presentation of the Project. MaineDOT further agrees to use its best efforts, either on its own or through its tenants, to plan for, facilitate, and manage such community and public use of the Property and Project.

2. General Provisions: This agreement may be simultaneously executed in any number of counterparts, each of which when so executed and delivered shall be an original; but such counterparts shall constitute but one and the same instrument. The Agreement may not be changed or terminated orally.

IN WITNESS WHEREOF, the parties, by their duly authorized officials, hereto have set their hands and seals, in multiple originals with effective date as the date at the beginning of this Agreement.

Witness: Maine Department of Transportation

/s/ Joan L. Morgan By: /s/ Margaret K. Duval Date: 6-9-09

Name: Margaret K. Duval

Title: Deputy Chief of Planning

Witness: Inhabitants of the Town of Trenton by its Selectmen

/s/ Janet L. Muise /s/ James E. Cameron Date: 6/02/09
Name: James E. Cameron, Selectman

CONTRACT ZONING AGREEMENT

/s/ Janet L. Muisse /s/ Michael Swanson Date: 6/02/09
Name: Michael Swanson, Selectman

/s/ Janet L. Muisse /s/ Michael Hodgkins Date: 6/02/09
Name: Michael Hodgkins, Selectman

/s/ Janet L. Muisse /s/ Julee Swanson Date: 6-2-09
Name: Julee Swanson, Selectman

/s/ Janet L. Muisse /s/ Carlene Hanscom Date: 6-2-09
Name: Carlene Hanscom, Selectman

STATE OF MAINE

Hancock County

June 02, 2009

Personally appeared the above named All Select board, in their capacity as Selectmen for Maine Town of Trenton and acknowledged before me the foregoing instrument to be their free act and deed in said capacity.

/s/ Janet L. Muisse
Notary Public

Janet L. Muisse
Print or type name as signed

STATE OF MAINE

Hancock County

June 2, 2009

Personally appeared the above named James E. Cameron, in his capacity as Selectman for Town of Trenton and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said municipal corporation.

/s/ Dale L. Worthen
Attorney-at-Law

Dale L. Worthen
Print or type name as signed

CONTRACT ZONING AGREEMENT

Kennebec County

6 - 9, 2009

Personally appeared the above named Margaret K. Duval, in his capacity as Deputy Chief of Planning for Maine Department of Transportation and acknowledged before me the foregoing instrument to be his free act and deed in his said capacity.

/s/ Jean S. Stewart

Notary Public

Jean A. Stewart

Print or type name as signed

ATTACHMENT 1: MAINEDOT COVER LETTER

February 25, 2009
(Revised May 14, 2009)

Frederick Ehrlenbach, Chair
Planning Board
Town of Trenton
59 Oak Point Rd
Trenton, ME 04605

Re: Trenton - Acadia Gateway Center, Request for Contract Zone

Dear Mr. Ehrlenbach:

The Maine Department of Transportation is requesting review and approval of a Contract Zone for a parcel of land in the town of Trenton known as the Crippens Brook site, on which it will locate a development project known as the Acadia Gateway Center.

The Acadia Gateway Center is a phased project with the first phase being an access road, bus maintenance facility for the Island Explorer, and a park and ride lot. The second phase of the project will be an intermodal center and bus way. The third phase of the project will be a welcome center for Acadia National Park. Finally, the fourth phase of the project will include theatres and commercial development. The second, third and fourth phases of the project could be constructed concurrently or in combination if funding availability allows. The project is unique and cannot be accommodated under the existing Land Use Ordinance, therefore, the MaineDOT is requesting that the property be re-zoned to accommodate the proposed uses noted.

The proposal is consistent with the Trenton Comprehensive Plan and the project can meet or exceed the land use standards for the existing zones in which the project is proposed. In particular, the proposed Acadia Gateway Center supports elements of the following goals of the Comprehensive Plan: Economy (Section II.A.B.1, page 76), Transportation (Section II.A.D.1, 2, 3, 4, 5, 6, 7, 8, 9, and 10, page 80), Public Facilities and Services (Section II.A.E. 4, page 85), Recreation, Open Space & Scenic Resources (Section II.A.F.1, 2, 3, page 87), Water Resources (Section II.A.H.1, 2,, 4, 5, page 89), Historic & Archaeological Resources (Section II.A.I.1, 2, page 91), Natural Resources (Section II.A.J.2, page 92), Land Use (Section II.A.L.1, 5, page 93)

The Economy Goal of Regional Coordination is being met through the establishment of a transportation intermodal center and Acadia National Park Visitor Center that will serve the entire region. Visitors and residents alike will use the transit system to access Acadia National Park and provide intercommunity transit service to places of work, retail centers, and other areas of interest.

All 10 elements of the Transportation Goal are met in part by the proposed facilities.

- Route 3 Corridor Improvements – The introduction of the intermodal facility in the westerly section of the town will provide for an opportunity to reduce the total amount of traffic using Route 3 to the east. A seasonal 10% reduction in traffic volume has been projected resulting in the elimination of approximately 3000 vehicles per day in this corridor.¹ The entrance to the facility will provide for protected left turns from Route 3 and is designed to accommodate the land owner on Route 3 opposite the project site.
- Access Management – The entrance has been designed to meet not only the site requirements for entrance spacing, but is also designed to accommodate future use of the parcel opposite the project site.
- Sight Distance – The sight distance at the entrance exceeds engineering design standards.
- Scenic Byway – The proposed project is an essential element in the application to expand the Acadia All American Road. The project will be a traveler destination and the starting point for the Byway. The site has been designed to compliment the Byway by preserving natural features and designing and locating buildings and other facilities in a context sensitive manner.
- Pedestrian Facilities – The facility is designed to safely allow for pedestrian use and circulation and paths are being planned through the parcel and likely to adjoining properties to create a trail for use by visitors and residents.
- Bicycle Facilities – The facility is designed to allow cyclists safe access to and from the site and to safe movement on the site. Future plans may include better bicycle and pedestrian connections to other area communities and to other bicycle trails in the region.
- Town Road Policy – Roads in the proposed project will be built or exceed engineering design and construction standards used by the MaineDOT. The design and construction will accommodate the range of vehicle types and sizes anticipated to use these facilities.
- Parking – Parking at the facility is designed to accommodate the range of vehicle types and sizes and the anticipated volumes associated with an intermodal facility of this type. The parking areas have been strategically placed on the site with appropriate landscaping to diminish visual impacts from Route 3.
- Separation of Local and Thru Traffic – Improvements are planned on Route 3 to provide safe ingress and egress to the site. This section of Route 3 will be expanded to accommodate

¹ The estimated 3000 vehicle trips per day reduction referenced herein is from a Maine Department of Transportation study of the entire highway corridor from Bangor to Bar Harbor and was erroneously included in the original letter. The estimated vehicle trips per day is from a larger study that included additional options, such as light rail or bus ways, for the entire corridor and did not specify the impacts that the Acadia Gateway Center could have on vehicle trip reductions in the Trenton to Bar Harbor corridor. Downeast Transportation Inc. estimates a range of 300 to 400 vehicle trips per day reduction from the Acadia Gateway Center.

protected left turn lanes for vehicles entering the site and lanes for all other thru traffic. The project has been designed to accommodate a four-way intersection that will provide access to the parcel of land opposite the project site.

- Managing Off-site Traffic Impacts of Development – During the development of this project, MaineDOT undertook a study of possible locations for an intermodal facility. Numerous sites were evaluated in a public process involving many stakeholders, including the town of Trenton. The project by its nature is specifically designed to provide safer and more efficient travel on the Route 3 corridor by providing travel alternatives, thereby eliminating substantial numbers of vehicles from the highway.

The Fire Protection and Emergency Response element of the Public Facilities and Services Goal will be met with the design and construction of a sprinkler system for fire suppression in the buildings built on the site.

The Current Recreation Arrangements element of the Recreation, Open Space & Scenic Resources Goal will be met in part when this site is fully developed. Initially, paths on site and eventually to surrounding areas will provide walking and bicycling opportunities for the public. With the development of the Visitor Center, Acadia National Park may be able to offer educational experiences for the area students and residents about the natural and scenic assets of the Park and its surroundings. An auditorium planned for later stages will provide an opportunity for learning experiences in a multi-media setting and will also provide a meeting place for use by citizens of Trenton for community activities when the facility is not in use for Park programs.

The Water Resources Goal will be met by:

- Ground Water Protection - Adequate on-site septic systems and a water collection system to capture wash water from the bus operations facility will be constructed. These systems have been designed to meet State of Maine Department of Health and Human Services and the Department of Environmental Protection regulations to meet the needs of the uses at the facility. Local permits will be obtained prior to the commencement of work.
- Non-point Source Management and Storm water Runoff – The project will incorporate measures at all phases of development to manage non-point pollution, storm water runoff, drainage, erosion, and sedimentation.
- Wetland Protection – MaineDOT has mapped and identified wetlands and soils on the site. The project has been designed to avoid wetlands where possible and to minimize impacts of the project on those features.
- Public Water System Protection - The water system has been designed to meet Department of Health and Human Services standards. Should the Department of Health and Human Services deem the water system to be a public water supply, as defined by its rules, then water supply systems will be located in accordance with well head protection criteria of those rules.

The Historic and Archaeological Resources Goal has been met through an evaluation of the site in accordance with procedures established by the Maine Historic Preservation Commission and adopted by MaineDOT.

The Natural Resources Goal has been met in the design elements of this project. Large areas of the site have been avoided and the site designed to meet the projects needs while imposing the minimum footprint. Construction activities at the site will be done in accordance with procedures that are consistent with proper site management, including the effective implementation of erosion and sedimentation control, traffic management at Route 3, and a “finished looking” site at the end of each phase of construction.

The Land Use Goal will be met by this project.

- Managing Commercial Strip Development – This project makes use of the parcel in a way that it does not intrude onto Route 3, thereby avoiding the commercial strip development pattern that is a focus of concern in the this section of the Comprehensive Plan. Facilities at this location are set distant from the highway, and have facades on the lines of agricultural buildings that dot the Maine and New England landscape. Context sensitive design provides an attractiveness that lures the visitor into the site rather than crowding the landscape by encroaching onto the highway.
- Contract Zoning – The project is located in a Rural Commercial and the Rural Development districts, both of which do not allow the uses being proposed for this location. The proposed project is greater than one acre of impervious surface; thereby a Contract Zone requiring voter approval is required.

On behalf of the Maine Department of Transportation, the above information and analysis of this project relative to the Trenton Comprehensive Plan has been provided to point out those elements where this project is consistent with and meets many of the goals adopted by the community. MaineDOT believes that it meets the criteria to satisfy the requirements for consideration of its request for a Contract Zone amendment to the Land Use Plan and the Land Use Maps for the town.

The Maine Department of Transportation is respectfully requesting approval by the Planning Board to move this project through the review and approval process as established in the Land Use Plan. The Department has assembled an array of documents and exhibits that it will present to the Planning Board for its review, discussion, and consideration.

We look forward to working with the community to bring this project to fruition. Thank you for your consideration.

Sincerely,

Margaret Duval, Deputy Chief
Bureau of Transportation Systems Planning

MD/FM/jmf

cc: David A. Cole, Commissioner
Kat Fuller, Chief, Bureau of Transportation Systems Planning

ATTACHMENT 2: ZONING MAP

A COPY IS ON FILE AT THE TOWN OFFICE

Attachment # 3 Letter regarding Solid Waste Disposal Arrangements



IN REPLY REFER TO:

United States Department of the Interior

NATIONAL PARK SERVICE

Acadia National Park
P.O. Box 177
Bar Harbor, Maine 04609

April 28, 2009

Mr. Frederick Ehrlenbach, Chair
Planning Board
Town of Trenton
59 Oak Point Road
Trenton, Maine 04605

Re: Acadia Gateway Center, Waste Disposal

Dear Mr. Ehrlenbach:

At the April 15, 2009, Planning Board meeting regarding the proposed Acadia Gateway Center, you requested written confirmation on the park's plans to manage solid waste generated at the facility.

This letter will confirm that the National Park Service will collect, transport and dispose of all solid waste generated at the proposed facility. Waste collection and transport will be accomplished using park staff or a private vendor. All waste disposal fees will be billed to and paid by Acadia National Park. Attached is a letter for the Vice President, Eastern Maine Recycling Inc. (EMR) confirming the financial arrangement between the park and EMR.

A private vendor will be hired to periodically pump the septic tanks and dispose of the sewage sludge in a state approved facility. All costs associated with the collection and disposal of sewage sludge will be billed to and paid by the National Park Service.

If you have any further questions or concerns regarding this matter, please do not hesitate to contact me.

Sincerely,

Sheridan Steele
Superintendent

Enclosure

E.M.R., Inc.
"Eastern Maine Recycling"

Recycling and Solid Waste Management

March 30, 2009

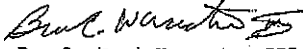
Mr Len Bobinchock
Acadia National Park
P.O. Box 177
Bar Harbor, ME 04609

Dear Mr. Bobinchock,

E.M.R., Inc. (EMR), Located at 47 Long Pond Road, Southwest Harbor, Maine, owns and operates a MeDEP licensed MSW facility which includes a MSW transfer station, recycling center, construction and demolition debris storage area, waste wood storage area and scrap metal storage area. E.M.R., Inc. has the capacity and is willing to accept the volumes of waste items that may be generated by the Acadia Gateway Center, including the bus maintenance facility, to be constructed on Route 3 in Trenton, Maine by Acadia National Park and Maine Department of Transportation. It is my understanding from our telephone conversation that EMR is to bill Acadia National Park and not the Town of Trenton for disposal fees for wastes generated from this project.

If you have any further questions or concerns regarding this matter please do not hesitate to contact me.

Sincerely,


Ben C. (Lee) Worcester III
Vice President

28 Main Street - P.O. Box 787 - Southwest Harbor, ME 04679-0787 - 207-244-9033
emr@midmaine.com - Fax 207-244-4072

Town of Trenton

Official Zoning Map

Drawn / Date

James Fisher, HCPC / 04/07/2010
File ID: TrentonZoning040710.mxd

Checked / Date

CEO

Selectmen

A True Copy

Attest:

Town Clerk

Date Approved

1 inch = 5,000 feet

0 1,000 2,000 4,000 6,000 8,000 10,000 Feet

Surry

Ellsworth

Hancock

Lamoine

Trenton

Eastern Bay



Legend

Blue Hill Bay

Roads

Streams

Union River Bay

Tax Parcels

Zoning

Acadia National Park

Airport Commercial/Industrial

Business Park

Contract Zone 1

Gateway/Commercial

Rural Commercial

Rural Development

Residential Growth

Resource Protection

Residential Rural

Village

Produced by the
Hancock County
Planning Commission
JEF - Dec. 7, 2005
Reprinted June 2, 2008

Modified: June 6, 2009 (Contract Zone 1 Added) (jhf)
Modified: February 4, 2010 (shoreland zones added)
Modified: April 7, 2010 LU Ordinance update (jhf)

Western Bay

NOTE:

Property lines shown were digitized from the town of Trenton Tax Maps by another consultant. Information shown is from various government and local sources. See the Trenton Comprehensive Plan text for more details. The information is shown for town-wide planning purposes only. Where specific data is needed, verification on the ground is recommended.



TOWN OF TRENTON SIGN ORDINANCE

Adopted: May 15, 1993
Amended: May 20, 2008
Amended: July 31, 2018

Attest a true copy

Carol Reed Walsh

Municipal Clerk

SIGN ORDINANCE TOWN OF TRENTON, MAINE
An Ordinance for the Regulation of Signs
in the Town of Trenton

Section 3 – 101 Authority

The ordinance is enacted pursuant to Title 30-A, M.R.S.A., Section 3001 and Title 23, M.R.S.A. Section 1901 et seq. in general and Section 1922 specifically.

Section 3 – 102 Title

This ordinance shall be known and may be cited as the “Ordinance for the Regulation of Signs in the Town of Trenton”.

Section 3 – 103 Purpose

In order to promote the safety, comfort and well-being of the users of streets, roads and highways in the Town of Trenton; to reduce distractions and obstructions from signs that may adversely affect traffic safety and to alleviate hazards caused by signs projecting over or encroaching upon public ways; to preserve or enhance the natural scenic beauty and other aesthetic features of or attendant to such thoroughfares and generally create and foster a more stable and attractive roadside environment for the benefit of townspeople and visitors alike, the Town Meeting of the Town of Trenton finds and declares that signs within view of the public ways of this town shall be regulated pursuant to this ordinance.

Section 3 – 104 Scope

- A. Unless otherwise exempted herein, no person shall erect any sign for a period in excess of seven (7) consecutive days that is visible from a public way except in conformance with this ordinance.
- B. Sign Permits, Requirements and Fees
Unless otherwise specifically exempted herein, no person, firm, corporation or other business entity shall hereafter erect, hang, place or alter a sign or sign structure of any kind without a permit first having been issued by the Sign Control Officer upon application accompanied by plans to scale, showing the area of the sign, the position of the sign in relation to nearby buildings, structures, public way, the location of the building, structure or lot to which or upon which, the sign is to be erected or attached. The method of illumination, if any and other such other information as the Sign Control Officer shall require to show full compliance with this ordinance and the State of Maine laws. If it appears that the proposed sign is in compliance with all such requirements and laws, the permit shall be issued, but should the work authorized under the permit not be completed within six months (6) after date of issuance, the permit shall become null and void. The payment of a twenty-five (\$25.00) dollar, one time permit application fee will be charged at the time of application, the purpose of which will be to cover the costs to the Town of administering the provisions of this ordinance.

C. Types of Signs & Definitions

Sign – Any structure, display, logo, device or representation which is designed or used to advertise or call attention to anything, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation state or town.

Bed and Breakfast, Boarding House or Tourist Home – Any dwelling in which lodging is offered for compensation to three or more persons either individually or as families with or without meals.

Banner – A piece of material consisting of cloth, fabric, vinyl, or canvas fastened on all four corners or attached to a rod on two opposite or parallel sides for purposes of securing.

Building Signs – Any sign attached to any part of a building, as contrasted to a freestanding sign.

Business Entity – Any person, corporation, partnership, association of two or more individuals having a joint or common interest or other legal entity that complies with all federal, state and local laws.

Canopy Sign – Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area.

Electronic Sign – Any sign that is electrically powered including animated, changeable, digital, message display boards, LED, and combination (fixed and electronic sections) signs.

Freestanding Sign – Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

Ground Floor Area – For the purpose of this ordinance, ground floor area refers to the sum, in square feet, of the first floor of all roofed portions of a building, (other than a cellar or basement) as measured from the interior face of the exterior walls, excluding floor area of a building devoted to stairwells, equipment or utility rooms, storage areas and other similar areas not intended for use in providing direct service to the public.

Home Occupation – An accessory use generally of a service character customarily conducted within a dwelling unit or accessory structure by a resident thereof, which is clearly secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Incidental Sign – A sign, generally informational or directional, that has a purpose secondary to the use of the lot on which it is located such as, “no parking”, “Entrance,” “loading area”, “telephone”, and other similar directions. No sign with a commercial

message legible from a position off the lot on which the sign is located shall be considered an incidental sign. Gas price information signs, as required by law, and located on top of or adjacent to fuel pumps and that are no larger than 4 square feet, shall be considered incidental signs.

Non-Conforming Sign – Any sign that does not conform to the requirements of this Ordinance.

Off-Premise Sign – Any sign located on land where the advertised activity is not located.

On-Premise Sign – Any sign located within 1,000 feet of the principal building where the business advertised is conducted.

Portable Sign – Any sign not permanently attached to the ground or other permanent structure. Or a sign designed to be transported, including but not limited to, signs designed to be transported by means of wheels, signs converted to A- or T- frames; menu and sandwich board signs, banners, balloons used as signs, umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Premises- One or more parcels of land which are in the same ownership and are contiguous.

Principal Building - The building in which is conducted the principal use of the lot on which it is located. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principle buildings.

Private Way – Any private road, or driveway not intended to be a public way.

Projecting Sign – Any sign affixed to a building or wall in such a manner that its leading edge extends more than six inches beyond the surface of such building or wall.

Public Way – Any road capable of carrying motor vehicles, including, but not limited to any State highway, municipal road, county road, unincorporated territory road, or other road dedicated to the public.

Roof Sign – Any sign erected and constructed wholly on and over the roof of a building supported by the roof structure

Roof Sign, Integral – Any sign erected or constructed as an integral or essentially integral part of a normal roof structure of any design, such that no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space more than 6 inches.

Scenic View – A visual resource to the general public encompassing unique natural formations, landscapes, seascapes and cultural entities, which, when viewed, elicit overall benefits to individuals and therefore to society in general,

Temporary Sign – Any sign that is used only temporarily (30 days or less) and is not permanently mounted. Temporary signs cannot exceed 24 square feet in size (includes both sides) and shall not be illuminated.

Wall Signs – Any sign attached parallel to, but within six inches of a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building and which displays one sign surface.

Window Sign – Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

Yard Sale – Any yard, garage, barn, basement or similar type of sales of merchandise by private individual, not regularly engaged in the conduct of such business, and undertaken at private residences on an irregular basis.

- D. The following signs do not require a permit provided they adhere to the size and placement limitations contained in this Ordinance:
1. Temporary, freestanding or wall signs that identify a church or public building of the town, county, state or federal governments;
 2. Temporary signs that identify a contractor at the site of construction underway in the Town of Trenton;
 3. Temporary signs advertising services or items for sale or rent by individuals not regularly in a profit making business;
 4. Temporary signs relating to the sale, lease or rental of real estate in the Town of Trenton
 5. Temporary sign(s) advertising special sales at a place of business. These signs may be attached to a place of business or to a permitted freestanding sign, or a portable sign, provided such signs are no larger than a total of 24 square feet in size and are in place for no more than 30 consecutive days. Furthermore, temporary sale signs can only be in place three (3) times a year with intervals of at least 21 days between placements;
 6. Window signs not covering more than (50) fifty percent of the window area;
 7. Any traffic control signs or devices meaning an official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way;
 8. Incidental signs and signs directing and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification. Such signs

- are not permitted within ten (10) feet from the outside edge of the paved portion of any public way;
9. Yard sale signs posted for less than three (3) days and no more than three (3) times per year;
 10. All political signs and public referendum signs for a period of up to six weeks prior to any election, voting, or town meeting;
 11. Signs bearing religious messages and signs showing the time and place of services or meetings of religious and civic groups;

Section 3 – 105 General Restrictions

- A. No outdoor advertising sign shall be attached to any tree or fence or be painted upon or directly affixed to any rock, ledge or natural feature.
- B. No outdoor sign shall be erected at any location where, by reason of position, shape, wording, or color, interferes with or obstructs the view of pedestrian or vehicular traffic; or which may be confused with any authorized traffic sign, signal or device.
- C. All signs and their supporting structures shall be properly maintained to prevent rust, rot, peeling or similar deterioration.
- D. Any outdoor sign which advertises, identifies or pertains to any activity no longer in existence or abandoned shall be removed by its owner or person otherwise responsible within 30 days from the time the activity ceases to exist. This provision does not apply to seasonal activities during the regular periods in which they are closed.
- E. Unless otherwise indicated herein, any temporary sign in place for more than three (3) months shall either be removed or permanently mounted. Before a temporary sign is mounted, a permit must be obtained in accordance with the provisions of this Ordinance.
- F. No advertising sign displayed on or near a public way shall have visible moving parts, except as allowed in paragraph N, nor shall be made to resemble a product or service offered for sale, nor shall have blinding, flashing, glaring or moving illumination or consist of pennants, ribbons, strings of lights, streamers or similar devices. The time and temperature portion of a sign is exempt from the prohibition of flashing signs. Open flags that do not exceed 15 square feet in size are exempt from this restriction.
- G. Portable signs will not be permitted in the Town of Trenton after one year from the time of adoption of this ordinance, except in accordance with Section 3 – 104 D.5. when used as a temporary sign.
- H. Separate or attached, outdoor credit or charge card signs will not be permitted in the Town of after one year from the adoption of this Ordinance except as required by state statute.
- I. Signs placed on residential properties may be used to convey the inhabitants' names, the property name, and safety and caution messages. Such signs shall not be placed on the roof of the building, must be placed on private property, and shall be no larger than two (2) square feet.
- J. Rental vacancies may be advertised with a non-illuminated sign no larger than two (2) square feet. Such sign shall be erected only during such times as the rental property is vacant, shall not be placed on the roof of the building, and must be placed on private property.

- K. Advertising signs placed on residential properties to promote bed and breakfast inns or home occupations are limited to two in number and each shall be no larger than 15 square feet.
- L. Exterior sign lights shall be shielded to ensure that light sources are not directly visible to drivers or from neighboring properties. Upward shining or ground-mounted lights may only be used provided they are shielded to direct light only at the sign.
- M. The position, shape, or height of sign placement should not interfere with or obstruct a scenic view. (Refer to Map Route 3 – Scenic Viewsheds attached)
- N. Electronic Signs:
 - 1. Shall change no more than once every twelve (12) seconds;
 - 2. Shall be static between changes (minimum 12 seconds);
 - 3. Shall not flash;
 - 4. Shall not scroll
 - 5. The message shall remain the same color for the duration (minimum 12 seconds)
 - 6. Shall be a maximum of two (2) sides.

Section 3 – 106 Standards

- A. Excluding window signs and certain canopy signs (see Section 3.106.K), the maximum total number of advertising signs for each business or establishment displays on any premises must not exceed four (4) in number.
- B. Excluding window signs, the size of any sign on any premises shall not exceed the size determined on the basis of the following:
 - 1. For principal structures in connection with any legal business with 5,000 square feet or more of ground floor area, one freestanding sign up to 240 square feet in size will be permitted.
 - 2. For principal structures in connection with any business entity with less than 5,000 square feet of ground floor area, one freestanding sign up to 120 square feet in size will be permitted. For principal structures with less than 5000 square feet of ground floor area which contain two or more separate business entities, the size of the sign may be increased from 120 square feet according to the following formula:
 - 2 separate business entities/10% increase in size of sign
 - 3 separate business entities/15% increase in size of sign
 - 4 or more separate business entities/20% increase in size of sign
 - 3. Where road frontage for a particular parcel exceeds 200 feet and the principal structure contains two or more business entities, one additional freestanding sign will be permitted provided that the total area of both signs does not exceed the size limitations provided in Section 3.106.B 1 and 2 above, that at least 100 feet will separate the two freestanding signs and that such signs are no closer than 10 feet from an adjoining property line.\
 - 4. In addition to the freestanding signs as permitted above, each separate, legal business entity will be permitted two (2) additional building signs, totaling no more than 20 square feet in size.

5. For two-sided signs only the area of one side of surface will be included in determining total area of the sign permitted. Sign Area is the area of the smallest square, rectangle, circle or combination thereof, which encompasses the facing of a sign, including copy, insignia, and background. The structural supports of a sign are to be excluded in determining the signable area. Where a supporting structure bears more than one sign, all such signs on the structure shall be considered as one sign, and so measured.
- C. Signs shall relate to the premises on which they are located. Off-Premises signs shall be guided on location, height, and size by Title 23, MRSA Section 1901 – Section 1925, as amended.
- D. Roof signs are permitted only if the top of the sign does not exceed the elevation of the top of the roofline upon which the sign is erected and total square feet does not exceed 24.
- E. Projecting signs shall not extend above the second floor of a building and have a minimum height of 10 feet above the ground level.
- F. Window signs shall not cover more than 50 percent (50%) of the window area.
- G. Official Business Directional signs require a permit from the Maine Department of Transportation and by the Selectmen. Such signs shall be uniform in size and type of lettering and shall conform to the requirements of the Maine Traveler Information Act (Chapter 23, Maine Revised Statutes Annotated Section 1901 – 1925 as amended) and the specifications contained in M.D.O.T. regulations pertaining to official Business Directional Signs (Chapter 200.01-200.09) as adopted by the Commissioner of the Maine Department of Transportation on May 18, 1982. Official Business Directional Signs will only be located in those vicinities where the traveler must change directions from one public way to another to reach the business facility or point of interest. Such signs must be furnished and preserved by the applicant.

Within two years of the effective date of this ordinance, all Official Business Directional signs located in Trenton shall be permitted only in those locations officially approved by the Selectmen of the Town of Trenton.

The Selectmen will determine acceptable locations for the placement of official business directional signs for the following reasons, and based on the following criteria:

1. Safety of the travelling public. Too many signs result in the distraction of motorists which increases the risks for accidents and is otherwise hazardous to highway users.
2. Protection of the natural beauty of the community. Scattering of official business directional signs throughout the town is detrimental to the preservation of scenic areas and to the economic base of the area.
3. Information dissemination. The provision of information on available public accommodations, commercial services for the travelling public and other lawful businesses and points of scenic, historic cultural, educational and religious interest is best accomplished in a few convenient locations and is a more effective means of providing information to tourists and other highway users about available facilities.

- H. Landscaping and architectural treatment of signs: Each new business or establishment locating along Route 3 in Trenton will be required to undertake certain landscaping and architectural treatment around signs in accordance with Section 3.10.3.C of the Trenton Land Use Ordinance. In addition, the construction of attractive, wood, externally lit signs is strongly encouraged for businesses locating in the Route 3 Corridor.
- I. The top edge of any free-standing sign that is 240 square feet in size shall not be higher than twenty-five (25) feet vertical measure above the grade of the street nearest the sign support(s). The top edge of any free-standing sign that is less than 240 square feet in size shall not be higher than eighteen (18) feet vertical measure above the grade of the street nearest the sign support(s). For traffic safety, where vision may be obscured entering a public street, the whole of the sign board or display elements of any free-standing sign shall be situated so as to not interfere with safe and convenient access and egress from a property onto a public way. A free-standing sign located within the front yard space shall be located on private property with the exception of official business directional signs as defined herein or any other traffic or directional signs erected by the state or federal government or by the Town of Trenton. Free-standing signs shall be no closer than ten feet to either side of the side lot lines.
- J. Common Signage Provisions: Where a multi-tenant or multi-business building is proposed a common signage plan is required. A common signage plan shall contain:
1. An accurate plot plan of the lot, at such scale as the Sign Control Officer may reasonably require;
 2. Location of buildings, parking lots, driveways and landscaped areas on such lot;
 3. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of signs allowed on the lot(s) included in the plan as allowed under this ordinance.
 4. An accurate indication on the plot plan of the proposed location of each present and future sign or any type, whether requiring a permit or not; and
 5. Provisions for consistency among all signs for the property including color scheme, lettering or graphic style of each sign and sign proportions.
 6. The common signage plan for all lot(s) with multiple users or multiple uses shall limit the number of freestanding signs in accordance with Section 3.106.B and shall, where necessary, provide for shared or common usage of such signs.
- K. Canopy signs erected in conjunction with functional petroleum dispensing facilities may have up to twenty-five (25) percent of the vertical face of the canopy devoted to signage provided that the vertical face of the canopy is not any wider than four (4) feet.

Section 3-107 Non-Conforming Signs

Unless otherwise stated herein, the use of any non-conforming sign, our outdoor advertising sign, in existence at the time of adoption of this Ordinance may continue but only in strict compliance with the following:

1. No nonconforming sign shall be enlarged, increased or extended to occupy a greater area than it occupied when it became nonconforming or in any other way that increases its nonconformity.
2. A legally existing nonconforming sign may be replaced only with a sign that complies with this ordinance in all respects, except that a legally existing

nonconforming sign, the replacement of which is necessitated by the vandalism of persons other than the owner or his or her agents, or by a force of nature, may be replaced with a sign identical in all respects to the one being replaced.

3. Any sign removed may be replaced only with a sign that complies with this ordinance in all respects.
4. Normal maintenance and repairs including painting and name changes are permitted but the sign shall not be enlarged in any dimension except in conformance with this Ordinance, and subject to permit.

Section 3-108 Administration, Enforcement, Waivers and Appeals

- A. This ordinance shall be enforced by the Sign Control Officer as appointed by the Selectmen.
- B. If the Sign Control Officer finds that any provision is being violated, he shall notify in writing the Selectmen and the person responsible for the violation and stating the action necessary to correct it.
- C. When any violation of any provision of the Ordinance is found to exist, the Selectmen of the Town of Trenton, upon notice from the Sign Control Officer, are hereby authorized and directed to institute proceedings that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- D. Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and on conviction shall be subject to the civil penalties as contained in Chapter 30-A M.R.S.A., Section 4452.
- E. Regarding Section 3-105-D of this Ordinance and in accordance with Trenton Land Use Ordinance, if a business ceases to exist or vacates the property for whatever reasons, a new sign permit must be obtained for an existing or a new sign and the sign shall comply to this Sign Ordinance in all respects.
- F. The planning board upon the recommendation of the sign control officer may waive certain specific requirements of this ordinance if an applicant for a permit can show unusual hardship due to conditions of topography, access, and or other physical characteristics.
- G. Any person aggrieved by a decision of the Sign Control Officer may appeal to the Trenton Board of Appeals within thirty (30) days after the decision. Any person aggrieved by the Board of Appeals decision may appeal from the decision to the Superior Court. This appeal shall be within 30 days after the decision of the Board of Appeals.
- H. The application and approval of a sign permit will be a “one-time” requirement as long as ownership remains unchanged. Upon relocation, modification or change of a sign or land, or business ownership, the (new) owner shall apply for an appropriate permit. Under new ownership, existing signs with no alteration or modifications do not require a new permit.

Section 3 – 109 Validity and Severability

- A. The provisions of the Ordinance are minimum requirements. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted statute, rule, regulation, ordinance, deed restriction or covenant that imposing the higher, more stringent standard shall govern.

- B. Should any section or provision of this ordinance be declared by the courts to be invalid such decision shall not invalidate any other section or provision of this ordinance.

Section 3-110 Effective Date

This Ordinance shall become effective on May 15, 1993 (date of adoption by the Town Meeting).

Amended on May 20, 2008 in a Special Town Meeting

Amended on July 31, 2018 in a special Town Meeting

SUBDIVISION REGULATIONS

TOWN OF TRENTON, MAINE

As Amended September 10, 2008

Town of Trenton Subdivision Regulations

Section 8-101 Purpose

- A. The purpose of these regulations is to establish an administrative hearing and review process which will provide the Trenton Planning Board with sufficient evidence, data and material to carry out its responsibilities as required by Title 30-A MRSA, Sections 4401-4407, the Trenton Land Use Ordinance and other applicable ordinances adopted by the town. These regulations are also to provide a vehicle by which the inhabitants of Trenton can evaluate the impact of the subdivision on the community as well as to provide a clear procedure which applicants for subdivision permits shall follow.
- B. These regulations are set forth to establish a process which requires only one (1) application, one (1) hearing and one (1) decision in order to achieve a fair and expeditious review of all subdivision applications.
- C. These regulations shall be to insure the comfort, convenience, safety, health and welfare of the residents of the Town of Trenton, and to protect the environment and, aesthetic beauty, to minimize potential impacts from new subdivisions on neighboring properties, and to provide for the development of an economically sound and stable community.
- D. These regulations are set forth to assure that new development in the Town of Trenton meets the goals and conforms to the policies of the Trenton Comprehensive Plan.
- E. The purpose of these regulations is also to assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.

Section 8-102 Authority & Prohibitions

- A. These Rules and Regulations are prepared in accordance with, and authority granted by Title 30-A MRSA, Section 4403 and shall be cited and known as 'Subdivision Regulations of the Town of Trenton.'
- B. Prohibitions. No lot shall be sold, leased or offered for sale or lease, no utility installations, no ditching, grading or construction of roads, no grading of land or lots, no clearing of vegetation, and no construction of buildings shall be done on any part of the subdivision until such subdivision plan shall have been duly prepared, submitted, reviewed, approved and endorsed as provided in these Regulations, and also an attested copy, so approved and so endorsed has been duly recorded by the subdivider in the Hancock County Registry of Deeds.

Section 8-103 Definitions

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Trenton Land Use Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units which will meet the sales price and/or rental targets established by the Comprehensive Plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Base: That portion of the roadway constructed of special material on the subgrade and supporting the surface and pavement.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of no less than thirty percent the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of dwelling units per acre of land.

Driveway: see 'Street Classification'

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

High Water Mark, Coastal Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

High Water Mark, Inland Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, most recent edition, published by the national Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Manufactured Housing: Means a structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

- (1) Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit; This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq.; and
- (2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Mobile Home Park: Means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes. A mobile home park is considered a major subdivision for purposes of review under the Trenton subdivision regulations.

Mobile Home Park Lot: Means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designed on a mobile home park plan.

Mobile Home Subdivision or Development: Means a parcel of land approved by the municipal reviewing authority under subsections of these regulations for the placement of manufactured houses on individually owned lots.

Multifamily Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings (also see Section 4.1.10.14 of the Trenton Land Use Ordinance), condominiums or mobile home parks.

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on

a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development. Areas unsuitable for development are:

1. Land which is situated below the normal high water mark of any water body.
2. Land which is located within the 100 year frequency flood plain. The elevation of filled or made land shall not be considered.
3. Land which is part of a right-of-way, or easement, including utility easements.
4. Land that has been created by filling or draining a pond or wetland.
5. Land which is located in a town designated resource protection district.
6. Land which has slopes in excess of 15%.
7. Land which is identified by the Soil Conservation Service as having a seasonal high-water table of 6" or less.

Net Residential Density: The average number of dwelling units per net residential acre.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

Planning Board: The Planning Board of the Town of Trenton.

Preliminary Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water Supply: any publicly or privately-owned system of pipes, structures and facilities through which water is obtained for or sold, furnished or distributed to the public for human consumption; if such system has at least 15 service connections or serves at least 25 individuals daily at least 60 days out of the year

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Right of Way: All lands or other property interest provided or acquired for the development and operation of a road, which could include drainage and slope easements.

Roadbed: That portion of the roadway between the outside edges of the finished shoulders.

Roadside: General term denoting the area adjoining the outer edge of the roadway.

Roadway: That portion of the highway within the limits of construction.

Shoulders: That portion of the roadway lying immediately outside the edge of the pavement.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

Source water protection area: the area that contributes recharge water to a surface water intake or public water supply well as determined by the Maine Drinking Water Program.

Street: Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. Rte 3 is considered an arterial street in Trenton.

Collector Street/Road: A street or road with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets. Rte 230 and Rte 204 are collector roads in Trenton.

Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

Driveway: A vehicular access-way serving two dwelling units or less.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Private Right of Way: A minor residential street which is not intended to be a public way.

Street Stub: A portion of a street reserved to provide access to future development, which may provide for utility connections.

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more

dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
2. The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

C. A lot of 40 or more acres must be counted as a lot, except:

1. When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that

does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

- E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

Subdivision Major: Any subdivision containing more than four lots or dwelling units, or any subdivision containing a proposed street.

Subdivision Minor: Any subdivision containing four lots or dwelling units or less, and in which no street is proposed to be constructed.

Subgrade: That portion of the roadway upon which the base and shoulders are constructed.

Surfacing: That portion of the roadway constructed on the base course to facilitate fine grading and produce good rideability.

Surface Treatment: Any bituminous treatment applied on the surfacing course, such as a tarred surface pavement applied at a rate of one gallon per square yard with at least 1½ inches of penetration.

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private right-of-way established by the present land owners.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 15%.

Section 8-104 Planning Board Review and Approval

- A. Application. An application for a subdivision permit shall be filed with the Code Enforcement Officer, who shall issue a dated receipt. within forty (40) days from date of filing the Planning Board shall notify the applicant, in writing, either that the application was complete, or that it was incomplete, specifically listing those parts required to make the application complete. For major subdivisions the planning board may also request the applicant to submit to the planning board for its consideration a preliminary plan before a final

plan is submitted. In such cases the planning board shall deem subdivision applications incomplete until after the review of the preliminary plan has been conducted. An affirmation of completeness by the Planning Board in no way, binds or commits the Board as to the adequacy of the application to meet the criteria of Title 30-A MRSA, Section Sections 4401-4407, as amended, or the Trenton Land Use Ordinance. After determining the completeness of the application by the Board, it shall notify the applicant and all property owners abutting the boundaries of the subdivision, in writing. This written notice shall briefly describe the subdivision and state where the application may be inspected.

- B. **Public Hearing.** The Planning Board shall hold a public hearing on proposed subdivisions within thirty (30) days of determining a complete subdivision application has been submitted. The planning board may also hold an informal public review of a preliminary plan submitted by the applicant. When the Planning Board shall hold a public hearing, it shall cause notice of the date, time and place of such hearing to be given to the applicant, and to be published in a newspaper of general circulation in the Town of Trenton at least twice prior to the hearing, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant.

C. **Decision.**

1. The Planning board shall, within thirty (30) days of a public hearing, or within such other time limits that may be otherwise mutually agreed to between the applicant and the Planning Board, issue an order denying, or granting approval of the proposed subdivision or granting approval upon such terms and conditions as the Planning Board may deem advisable to satisfy the criteria of Title 30-A MRSA, Section 4404, as amended, these Regulations and the comprehensive plan of the Town of Trenton, and any other regulations of the Town of Trenton pertinent to the proposed subdivision.
2. In issuing its decision, the Planning Board shall prepare written findings of fact establishing that the proposed subdivision does or does not meet the criteria of 30-A MRSA, Section 4404, as amended, the comprehensive plan of the Town of Trenton, and the standards in these regulations.
3. In all instances, the burden of proof, persuasion, production of documents and data shall be upon the applicant.
4. Pursuant to the provisions of the *Assessment of Impact Fee Ordinance of Town of Trenton, Maine*, Article I, Section 1.4, final approval of any subdivision application shall not be granted until the provisions of the impact fee ordinance are met.
5. In approving any subdivision within the Town of Trenton, the Planning Board shall consider the following criteria, and before granting approval shall determine that the proposed subdivision:
 - a. Will not result in undue water or air pollution. In making this determination, it shall at least consider: The elevation of land and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable State and local water resources rules and regulations;
 - b. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

- c. Will not cause unreasonable burden on an existing water supply, if one is to be utilized;
- d. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results;
- e. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- f. Will provide for adequate sewage waste disposal;
- g. Will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife of the municipality or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- i. Is in conformance with the zoning ordinance, these subdivision regulations, comprehensive plan and all other ordinances and regulations duly adopted by the Town of Trenton;
- j. The subdivider has adequate financial and technical capacity to meet the standards of these regulations;
- k. Whenever situated entirely or partially within 250 feet of the upland edge of a coastal or freshwater wetland, within 75 feet of the highwater line of a stream, or within 250 feet of the normal high water line of any saltwater body as defined in Title 38, chapter 3, subchapter I, sections 435 - 449, that the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;
- l. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- m. Is not in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevations;
- n. Will not affect any and all freshwater wetlands within the proposed subdivision, which must be identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- o. Will not affect any river, stream or brook within or abutting the proposed subdivision, which must be

identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

- p. Will provide for adequate storm water management; and
 - q. Will not result in spaghetti-lots. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 3 to 1.
 - r. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
 - s. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.
 - t. The subdivider has notified public water supply operators if any portion of the land subject to review under the subdivision application lies within the public water source water protection area.
- 6. The approval of a Subdivision Plan shall be attested on the original reproducible tracing and on two (2) copies by the signature of a majority of the members of the Board.
 - 7. One (1) copy of an approved Subdivision Plan as amended shall be retained by the Building Inspector's Office, one (1) copy shall be retained by the Planning Board for its files, one (1) reproducible tracing copy shall be delivered to the County Registry of Deeds by the applicant for recording, the cost of recording to be borne by the applicant.
 - 8. For any Subdivision Plan on land within five hundred (500) feet of an adjacent community, the Trenton Planning Board shall notify the adjacent community.
 - 9. All applications for Final Plan approval for a Subdivision shall be accompanied by a non-refundable application fee of \$25 per lot or dwelling unit, payable by check to the municipality. In addition, the

applicant may be required to pay an additional fee to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application, if and as necessary. An estimate of the cost of the independent consulting services will be provided to the applicant before costs are incurred. Any balance in the special account remaining after a decision on the final plan application by the Board shall be returned to the applicant. A fee for inspection of construction of required improvements may also be required. See Section 8-107 Inspections and Enforcements.

Section 8-105 Submissions

A. Completed application shall consist of the following:

1. Application Form.
2. Two (2) prints and an inked cloth or Mylar film tracing of twenty-four by thirty-two inches (24' x 32") maximum, of the final plot plan, for signature and recording purposes, in accordance with Section 8-104.5 -6. For a preliminary plan of a major subdivision three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot.
3. At least three (3) copies of the final subdivision plan which shall provide the following information:
 - a. At least three (3) copies of each map or drawing which may be printed or reproduced on paper with all dimensions shown in feet, with a scale of one (1) inch equal to fifty (50) feet, or a scale deemed appropriate by the planning board as necessary so that all necessary detail can easily be read.
 - b. Proposed name of subdivision or identifying title.
 - c. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plans.
 - d. Date, true north arrow, graphic scale.
 - e. Boundaries of the tract.
 - f. The names and addresses of all abutters and owners on record.
 - g. Contour intervals not to exceed twenty (20) feet or as directed by the Planning Board, tied whenever possible to USGS Bench Marks.
 - h. Number of acres within the proposed subdivision, location of property lines, lot lines, dimensions and square feet or acreage of each lot identifying existing easements, building, watercourses and other existing essential physical features including wooded areas and wetlands and showing the location of all unusual and unique natural features on or near the site.

- i. Zoning district boundaries affecting the subdivision.
- j. Verification of right, title, or interest in the property.
- k. Type, location and direction of flow of all existing surface water drainage.
- l. Location of all existing utilities.
- m. Location, name and present width of all existing and proposed streets, easements, parks and other public open spaces within and directly adjacent to the proposed subdivision. In addition maintenance and management arrangements for any new proposed streets shall also be provided.
- n. Grades and street profiles of all streets or other public ways proposed by the subdivider and typical cross sections of the proposed grading and roadways and sidewalks.
- o. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, including management and maintenance arrangements proposed.
- p. Location of existing natural or man-made features influencing the layout of the proposed subdivision shall be shown. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the Plan. On wooded sites, the Plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.
- q. Proposed use of the property.
- r. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan.
- s. Registry of Deeds book and page numbers of deeds of all properties within the proposed subdivision and all covenants, or right-of-way on the proposed subdivision land.
- t. Where sewage disposal is proposed by use of septic tanks the Board shall require a written statement from a Maine licensed Site Evaluator that test pit analyses, and other requirements, in accordance with the State of Maine Subsurface Wastewater Disposal Rules, have been made on each proposed lot and that the land is considered suitable for disposal systems using septic tanks. The location of all test pits dug on the site shall be shown on the plan and results of the tests shown to ascertain surface and subsurface soils and ground water conditions, depth to maximum ground water level and ledge for each lot shall also be provided.
- u. The location of all markers, permanent and temporary, adequate to enable the Board to locate readily and appraise the basic site layout in the field.

- v. The following words shall appear on the recorded plan. "All roads in this subdivision shall remain private right-of-ways to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the existing municipal street design and construction standards and are accepted by the legislative body of the Town."
- w. The location of any public water supply source protection area that falls within the property.

B. The Subdivision Plan shall be accompanied by these documents providing the following information:

1. Water supply system proposed in the subdivision plan shall be approved in writing by the plumbing inspector or other qualified person appointed by the Board.
2. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of Stormwater Management for Maine: BMPS Technical Design Manual, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
3. A high intensity soils report identifying the soils boundaries and names in the proposed development with the soils information inked on cloth or mylar film to the same scale as the subdivision plan and in accordance with the U.S. Natural Resource Conservation Service, National Cooperative Soil Classification. Wetland areas shall be identified on the survey regardless of size.
4. A Soil Erosion and Sediment Control Plan. The Planning Board may require the endorsement of the Hancock County Soil and Water Conservation District of the Maine Soil and Water Conservation Commission.
5. A hydrogeologic assessment may be required by the Board. When a hydrogeologic assessment is submitted the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality and quantity, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources,

whichever is a shorter distance.

- f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
 - g. Projections of ground water quality and quantity shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
6. The planning board in its determination of financial capacity may also require:
- a. A list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots, and evidence that the subdivider has financial commitments or resources to cover these costs.
 - b. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street maintenance and snow removal
- Police and fire protection
- Solid Waste disposal
- Recreation facilities
- Storm water drainage
- Wastewater treatment
- Water supply

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

7. Subdivisions larger than twenty (20) acres shall be required by State of Maine Department of Environmental Protection Site Review under the Site Location Article, Title 38, MRSA, Section 481-489, as amended. The Planning Board shall withhold approval of such a subdivision until receiving proof that the State Department of Environmental Protection has been notified of the possible need for such a review.
8. Such other conveyances, certificates, affidavits, endorsements, deductions or any additional information as may be required by the Planning Board in order to determine whether the criteria of Title 30-A MRSA, Section 4404 are met, and as necessary for the enforcement of these regulations.

Section 8-106 Performance Standards for Subdivisions

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the Subdivision Statute (30-A M.R.S.A., 4404). In reviewing a proposed subdivision, the Planning Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of

proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

A. Pollution

1. The proposed subdivision shall not discharge wastewater to any water body without a license from the Maine Department of Environmental Protection.

B. Sufficient Water

1. Water Supply.

- a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
- b. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
- c. If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
- d. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of one acre or less. On lots of one acre or smaller, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
- e. Dug wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.
- f. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities.
 - (1) Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
 - (2) A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. The Board may require additional storage capacity upon a recommendation from the fire chief.
 - (3) Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality

granting access to and maintenance of dry hydrants or reservoirs where necessary.

- (4) Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.
- (5) The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

2. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the registry of deeds.

C. Erosion and Sedimentation

1. The proposed subdivision shall prevent soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.
2. An erosion and sedimentation plan shall be prepared in accordance with the standards of the Maine Department of Environmental Protection's Maine Erosion and Sediment Control BMPS (March 2003 or as subsequently amended).
3. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
4. Topsoil shall be considered part of the subdivisions and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations.

D. Traffic and Roads

1. General Standards

The proposed subdivision shall meet the following general transportation performance standards:

- a. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets

- b. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
- c. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
- d. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
- e. The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

2. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following standards:

- a. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation "Highway Driveway and Entrance Rules";
- b. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation "Rules and Regulations Pertaining to Traffic Movement Permits".
- c. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of streets or intersections neighboring the subdivision to a LOS of "E" or below, unless:
 - 1. the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or
 - 2. the level of service of the road or intersection will be raised to D or above through transportation demand management techniques; or
 - 3. the applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or

4. improvements cannot reasonably be made because the road or intersection is located in a central business district or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites) and transportation demand management techniques will be implemented to the fullest extent practical; or
 5. The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or
 6. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.
- d. Accesses to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.

3. General Internal Subdivision Street Standards

All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.

- a. The street or street system, including pedestrian ways, of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets and pedestrian ways, both sidewalks and stand alone paths and/or trails. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs designed to town standards unless specifically exempted by the town, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of vehicular and pedestrian traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by

substantial through traffic.

- b. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways, transportation demand management techniques, and traffic controls within existing public streets. Provisions shall also be made for easements for stand alone (off-street) pedestrian facilities that connect to adjoining neighborhoods and development and/or existing trails.

4. Street Names, Signs and Lighting

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting may be required to be installed as approved by the Board.

5. Cleanup

Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

6. Specific Access and Street Design Standards.

A. Access Control.

1. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.
2. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematical, the Board may allow an access on the higher volume street if the

access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic. In cases where the double frontage lot has frontage on two Maine Department of Transportation designated non-compact arterials, the access shall meet the permitting standards of the Maine Department of Transportation "Highway Driveway and Entrance Rules".

4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
5. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
 - a. the external street is not paved; or
 - b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
6. Minimum Sight Distance Standards

Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 1 (*see Appendix I*) shall apply. For accesses that are estimated to carry more than 30% of their traffic in vehicles larger than standard passenger vehicles, the standards in the third column of Table 1 shall apply. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 1 shall apply.

7. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be defined by the latest edition of the Trip Generation Manual published by the Institute of Transportation Engineers. The following traffic volume standards shall apply to the design of subdivision accesses connecting to external streets:
 - a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.
 - b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during

the peak hour.

- c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.

8. Basic Access Design Standards for Low and Medium Volume Accesses

The following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:

9. Additional Access Requirements for Medium Volume Accesses

In addition to the basic access standards outlined in 8-106.D.B., medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following standards:

- a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 8-106.D.B. if a larger design radius is needed to accommodate a larger design vehicle.
- b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.
- c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of 9 feet from the traveled way of the external road.
- d. The Board shall determine if one two-way or two one-way access(es) will be required for the proposed subdivision. If a one-way system is required and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise all one way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the Board shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least 12 feet.

10. All high volume accesses shall meet the requirements of the Maine Department of Transportation's "Rules and Regulations Pertaining to Traffic Movement Permits." A copy of the Maine Department of Transportation's required traffic study shall be submitted to the Board. The Board shall develop design standards for the proposed subdivision access based on the findings of the traffic study submitted to the Maine Department of Transportation. The design standards shall be compatible with the performance standards cited in Section 8-106.D.2. of the Subdivision Regulations.

B. Street Design and Construction Standards.

1. General Requirements.

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
 1. Date, scale, and north point, indicating magnetic or true.
 2. Intersections of the proposed street with existing streets.
 3. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, clear zone, sidewalks, and curbs.
 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 6. Turning radii at all intersections.
 7. Centerline gradients.

8. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
- e. Private Roads.

The following standards shall apply to all proposed private roads:

1. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
2. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
3. The Board may approve a reduction of the right of way easement for private roads to a minimum of 30 feet in land use density areas designated as "Rural" in Section 10.15.1.B.2.f.
4. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system.
5. All private roads shall have adequate provisions for drainage and stormwater runoff as provided in Section 10.12.
6. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan : "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet all municipal street design and construction standards."

7. A road maintenance agreement shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- e. Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of Table 2 shall be compatible with the traffic volume access thresholds referenced in Section 8-106.D.6.A.7. In addition, the street design standards shall be compatible with the estimated Average Daily Traffic expected to occur on the internal subdivision street, and the land use type and lot density allowed in the land use zone. The following land use density pattern requirements shall be required for the following land use zones.

1. Land use density patterns that are Rural (R) shall apply to the following zones: Resource Protection and Residential Rural.
 2. Land use density patterns that are Village/Urban (V/U) shall apply to the following zones: Village, Business Park, Residential Growth and Rural Development.
 3. Land use density patterns that are Commercial/Industrial (C/I) shall apply to the following zones if the proposed development will contain commercial or industrial uses: Airport Commercial Industrial, Gateway Commercial; Rural Commercial and Route 3 Corridor Overlay District,
- g. The Board shall have authority to increase the minimum standards in Table 2, if the Board approves a road design that will accommodate travel speeds greater than 30 mph.
- h. On Street Parking.
The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 65 feet and 150 feet wide for on-street spillover parking.
- i. Curbs.
1. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Section 10.13. If curbs are not necessary for stormwater management purposes, they are not required for subdivisions in which the average lot width is 150 feet or greater.
 2. If the Board requires a vertical curb and no parking lane is present, a minimum shoulder of 2 feet is recommended from the traveled way to the curb. For sloped curbs where no parking lane is present, a minimum 1 foot shoulder is required from the traveled way to the curb.
 3. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.
- j. The Board may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 1 foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones defined in Section 8.106.D.6.B.2.F. Paved shoulder widths for low and medium volume streets in Village (V) designated zones shall be a minimum of 2 feet on either side of the traveled way.

k. The centerline of the roadway shall be the centerline of the right-of-way.

l. Dead End Streets.

In addition to the design standards in Table 2, dead-end streets shall be constructed to provide a cul-de-sac turn-around with a travel lane and width equal to the minimum width required for the internal subdivision street. For all residential cul-de-sacs the minimum radius shall be 38 feet. For commercial/industrial cul-de-sacs the minimum radius shall be 50 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible. A T-turn around is permissible for residential subdivisions carrying an ADT of 100 or less. The turn around area shall have a width equal to the street width, a 5 foot turning radius, and a total length of 50 feet centered above the street.

m. Sidewalks.

The Board may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be needed. The Board shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed. If no shoulder is required, the sidewalk shall be located a minimum of 4 feet from the edge of the traveled way.

2. Bituminous Sidewalks.

- (a) The "subbase" aggregate course shall be no less than twelve inches thick after compaction.
- (b) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

- (a) The "subbase" aggregate shall be no less than twelve inches thick after compaction.
- (b) The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in

Table 3.

b. Preparation.

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1. Bases/Subbase.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 4.

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter,

lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 5.

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

(a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

(b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

4. Surface Gravel.

The Board may approve an aggregate road base for any internal subdivision public street in which zoning requires a minimum of one dwelling unit per 7 acres, or any private way with a maximum estimated Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.6.

E. Sewage Disposal

1. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
2. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.

F. Impact on Municipality's Ability to Dispose of Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste

facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

G. Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

1. Scenic areas as identified in the Town's Comprehensive Plan are an important part of its character and need to be preserved. It is the policy of the town in conformance with the comprehensive plan to encourage the preservation and utilization of these areas through proper land use planning and site design principles. The Subdivision Plan shall require structures to impede as little as reasonably practical, scenic views from public roadways or from existing structures and the natural environment.
2. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter at a height of 5 feet above the ground, the replacement of trees and vegetation, and graded contours.

H. Retention of Open Space and Natural or Historic Features

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.

5. Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Reserved open space land may be dedicated to the municipality.
8. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

I. Preservation of Significant Wildlife Habitat

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
 - a. habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor, or
3. Other important habitat areas identified in the local comprehensive Plan or the Department of Inland Fisheries and Wildlife Beginning with Habitat project the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Board may be required. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

Any existing public rights of access to the shoreline of a water body shall be maintained by means of

easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

J. Conformance with Zoning and Other Land Use Provisions

All lots shall meet the minimum dimensional requirements for the land use district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria as provided in provisions contained in other Town Ordinances.

K. Financial and Technical Capacity

1. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

2. Technical Ability.

- a. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
- b. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

L. Impact on Ground Water Quality or Quantity

1. Ground Water Quality

- a. A hydrogeologic assessment may be required by the Planning Board. When a hydrogeologic assessment is required, it shall contain at least the following information:
 1. A map showing the basic soils types.
 2. The depth to the water table at representative points throughout the subdivision.
 3. Drainage conditions throughout the subdivision.
 4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 6. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision

boundaries.

- b. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- c. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- d. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- e. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- f. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

2. Ground Water Quantity

- a. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
- b. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

M. Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- 1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- 2. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- 3. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may

enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

N. Identification of Freshwater Wetlands

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the most current *Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

O. Storm Water Management

1. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
2. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
3. For subdivisions that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which incorporates Low Impact Development techniques on each individual lot.
4. The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a "Downstream Analysis" under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

Downstream Analysis Methodology:

The criteria used for the downstream analysis is referred to as the "10% rule." Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

P. Reservation or Dedication and Maintenance of Open Areas or Common Area Facilities and Services

1. All open areas common land, facilities and property shall be owned by:

- a. The owners of the lots by means of a lot-owners association; or
 - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition;
2. Further subdivision of the common areas or open areas and its use for other than non-commercial recreation, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. Accessory structures to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than a homeowner's association, there shall be a conservation easement deeded to the municipality prohibiting future development.

For purposes of property taxation, assessed value of any common land shall be proportionately distributed as added value to each individual owner of lot(s) within the approved subdivision. This shall be noted on the deed for each lot.

3. The common land or space shall be shown on the Final Plan with appropriate notations on the plan to indicate that it shall not be used for future building lots.
4. All common areas shall be made accessible to the residents of the subdivision by means of frontage on an existing or proposed public road or where the above option isn't practical, a deeded right of way for purposes of foot access.

Q. Lots

1. Wherever possible, side lot lines shall be perpendicular to the street.
2. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of these regulations and conditions placed on the original approval.
3. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
4. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
5. Lot dimensions and building setback lines shall meet the requirements of the Land-Use Ordinance for the district in which the subdivision is located.
6. Depth and width of properties received or laid out for all purposes shall be adequate to provide for the off-street service and parking facilities for vehicles required by the type of use and development

contemplated.

7. Corner lots shall be increased in size wherever necessary in order that any structure to be placed thereon shall conform to the minimum setback line of each street as required by the Land-Use Ordinance.
8. Side lots lines shall be substantially at right angles or radial to street lines.

R. Monuments

1. Stone or precast concrete monuments or iron stakes, shall be set adjacent to all street intersections and points of road curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. One stone or precast concrete monument shall be set at a corner or angle point within the subdivision. Iron stakes shall be set at all other corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
3. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above.
4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

S. Mobile Home Parks and Mobile Home Subdivisions

Except as stipulated in this subsection below, mobile home parks and mobile home subdivisions shall comply with all state laws and these regulations, and shall meet the submission requirements for subdivisions, as well as the development standards for subdivisions contained in this section.

1. Lot Size, Width, and Density

Lots in a mobile home park or subdivision shall meet the following lot size, width, and density requirements.

a. Lots served by individual subsurface sewage disposal system

Minimum lot area 20,000 sq. ft.
Minimum lot width 80 feet

b. Lots served by a central subsurface wastewater disposal system

Minimum lot area 12,000 sq. ft.
Minimum lot width 65 feet

- c. The overall density of a mobile home park subdivision served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 square feet of total park area.
- d. Lots within the shoreland zone as defined shall meet the lot area, lot width, setback, and shore frontage requirements for that district or use.
- e. In calculating the overall density of the mobile home park or subdivision the area used shall be the combined area of its mobile home lots plus:
 - 1. The area for road rights-of-way;
 - 2. The area required for buffer strips, if any;
 - 3. The area within the municipality's shoreland zone area setback for principal and accessory structures.

2. Lot Setbacks

Mobile homes in a mobile home park or subdivision but adjacent to a public road shall be set back from the road a distance equal to the setback requirements for other residential developments.

- a. The following lot setbacks shall apply to all homes and accessory buildings:

Front setback: 20 feet
 Side setback: 20 feet
 Rear setback: 10 feet

If these requirements conflict with the requirements of the Shoreland Zone, the stricter standards shall apply. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units.

- b. The Planning Board may allow lot side yard setbacks to be reduced to 5 feet provided a distance of 20 feet is maintained between units for the purpose of providing more usable yard space on one side of the home.

- c. Distance Between Homes

A minimum 20 foot separation shall be maintained between all manufactured homes in all directions.

3. Lot Coverage

All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

4. Ownership

Where a developer elects to create a mobile home park where all land is under one ownership, the park plan shall show lots and the development shall demonstrate that the development standards described herein are met.

5. Road Standards

- a. Privately owned roads within the mobile home park or subdivision shall be designed and built according to the road standards developed by the Manufactured Housing Board.
- b. Privately owned roads within the mobile home park or subdivision shall have a minimum right-of-way of 23 feet, of which 20 feet shall be paved.
- c. Roads within mobile home parks or subdivisions which are to be offered for acceptance to the town shall meet the minimum road standards of subsection T of these regulations.
- d. Mobile home park roads which intersect with public roads shall meet the following standards:
 1. Angle of intersection. The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
 2. Grade. Maximum grade within 75 feet of intersection. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 3. Minimum sight distance. The minimum sight distance shall be 10 times the posted speed limit on the existing road. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet. Where necessary, the park land bordering the intersection shall be cleared of all growth and sight obstructions to achieve the required visibility.
 4. Distance from other intersections. The centerline of any street within a park intersecting an existing public street shall be at least 125 feet from the centerline of any other street intersecting that public street.

6. Buffer Strips

- a. A 50 ft. wide buffer strip shall be provided along all property boundaries that:
 1. Abut residential land which has a gross density of one half or less of that proposed in the park, or
 2. Abut residential land that has lot size requirements at a density of one half or less of that proposed in the park.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross

a buffer strip to provide services to the park. Lots may extend into the buffer strip.

- b. Within 25 feet of any property line and within the buffer strip, visual screening and/or landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least 80% of the homes from view from the adjacent property and shall be maintained throughout the life of the project.

- 7. No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the district in which it is located.

T. Compliance with Timber Harvesting Rules

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

U. Easement for Natural Drainage Ways and Utilities

Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be conveyed to the town if requested, a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, as will assure to the extent possible that all storm water can be disposed of properly. Easements for sewer and water line affecting the subdivision shall be provided where necessary and shall be at least twenty (20) feet wide.

Section 8-107 Enforcement & Inspections

A. Inspection of Required Improvements

- 1. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
 - a. Notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the inspection can be made

in accordance with these regulations to assure that all municipal specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities as required by the Board.

- b. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
2. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Board, and the subdivider and builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
3. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
4. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Municipal Officers.
5. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or their control is placed with a lot owners association.

B. Violations and Enforcement

1. 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 Final Plan has been approved by the Board in accordance with this ordinance.
2. A person, shall not convey, offer or agree to convey any land in a subdivision which is not shown on the plan as a separate lot.

3. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
4. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
5. Development of a subdivision without 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 require a plan approved as provided in this ordinance and recorded in the Registry of Deeds.
6. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

Section 8-108 Penalty

Whoever violates any provision of these regulations shall, upon conviction, be punished in accordance with the laws of the State of Maine, specifically by a fine of not less than one hundred dollars (\$100.00) and not more than two thousand five hundred dollars (\$2,500.00), Title 30-A, MRSA, Section 4452, as amended. Each day non-conformance with any such provision shall constitute a new and separate offense.

Section 8-109 Waivers

- A. Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in this ordinance, provided the applicant has demonstrated that the performance standards of this ordinance and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance, or this ordinance.
- B. Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance, or these regulations and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.
- C. In granting waivers in accordance with Section A and B above, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied, waived or modified.

- D. When the Board grants a waiver to any of the improvements required by this ordinance, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

Section 8-110 Performance Guarantees

A. Types of Guarantees

With submittal of the application for Final Plan approval, the planning board may require the subdivider to provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

1. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account.
2. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Administrative Assistant.
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, if approved by the Municipal Officers.

B. Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part of all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

C. Escrow Account

If the guarantee is in the form of a cash contribution to the establishment of an escrow account, it shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

D. Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the municipality. The

bond documents shall specifically reference the subdivision for which approval is sought.

E. Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

F. Phasing of Development

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

G. Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

H. Default

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Municipal Officers, the Board and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

I. Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required to meet the standards of this ordinance and for the construction of the streets, storm water management facilities, shared or common sewage collection or disposal facilities, shared or common water systems, and erosion and sedimentation control measures.

Section 8-111 Appeal

An appeal may be taken within thirty (30) days from a decision of the Planning Board to the Trenton Board of Appeals in accordance with Title 30 MRSA, Section 2411, as amended.

Section 8-112 Severability

If any provision of these regulations is held to be invalid for any reason, such invalidity shall not affect the remaining provisions of these regulations which shall remain in force and effect.

Section 8-113 Amendments

- A. These regulations may be amended by:
 - 1. The Legislative Body of the Town of Trenton.
 - 2. The Planning Board if the Legislative Body has not adopted or amended the standards.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

Section 8-114 Adoption

These regulations shall take effect upon adoption by a majority of the Planning Board.

APPENDIX I:
Roads and Transportation Tables

Table 1: Minimum Sight Distance Standards for Subdivision Accesses			
Posted Speed (MPH)	Sight Distance Standard Vehicles (Feet)	Sight Distance Larger Vehicles (Feet)	Mobility Sight of Distance (Feet)
20	155	230	Not applicable
25	200	300	Not applicable
30	250	375	Not applicable
35	305	455	Not applicable
40	360	540	580
45	425	635	710
50	495	740	840
55	570	855	990
60	645	965	1,150
Source:			

Table 2: Street Guideli

Category	Low Volume						Medium Volume									High Volume		
Volume	1-50 ADT			50-100 ADT			100-400 ADT			400-1500			1500 + ADT			100 PCE +		
Pattern	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C
Right	40'	40'	40'	40'	40'	50'	50'	50'	50'	50'	50'	60'	60'	60'	60'	60'	60'	60'
Med Way	14'	16'	16'	18'	18'	24'	18'	20'	28'	18'	20'	30'	20'	22'	30'	22'	24'	30'
ler Width (side)*	0'	0'	4'	0'	1'	2'	2'	1'	2'	2'	2'	4'	3'	4'	5'	3'	4'	5'
Zone Width (side)	7'	7'	7'	7'	7'	7'	7'	7'	7'	8'	8'	8'	8'	8'	8'	8'	8'	8'
al nce**	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'
Grade ntage %)	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50	0.50
***	8%	8%	5%	8%	8%	5%	8%	8%	5%	6%	6%	5%	6%	6%	5%	5%	5%	5%
line s****	100'	100'	350'	100'	100'	350'	100'	100'	350'	140'	140'	350'	140'	140'	350'	350'	350'	350'
ay Crown lt Surface	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft
Aggregate ce	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A
al Sight nce	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'
al Spacing lards*****	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'
al Access to t Corner ance **	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'
ce:																		

*The Board may require an increase in shoulder width for stormwater management purposes or road stabilization.

**The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders.

***Maximum grade may be exceeded for a length of

****Superelevation is not recommended for any subdivision street, unless recommended by Town engineer or Town-hired consultant.

*****Internal spacing distances are measured from the edge of one internal subdivision access to another, excluding curb radii.

*****Internal access to street corner clearances are measured from the edge of an internal subdivision access to an intersecting public road, excluding curb radii.

Table 3: Minimum Pavement Materials Thickness	
Street Materials	Thickness Standards
Aggregate Subbase Course (Max. sized stone 6")	
Without Base Gravel	18"
With Base Gravel	15"
Crushed Aggregate Base Course (if necessary)	3"
Hot Bituminous Pavement Total Thickness	3"
Surface Course	1 1/4 "
Base Course	1 3/4 "
Source:	

Table 4: Aggregate Subbase Grading Requirements	
Sieve Designation Sieves	Percentage by Weight Passing Square Mesh
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%
Source:	

Table 5: Base Course Grading Requirements	
Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%
Source:	

