

The University of Maine

DigitalCommons@UMaine

Maine Town Documents

Maine Government Documents

2018

Town of Union Maine Ordinances

Union, 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.

Town of Union Canine Control Ordinance



A True Copy Attest

Stacey M. Y. Parra
Union Town Clerk
Date: _____

Enacted June 18, 1996
Amended Monday, June 16, 2014
Amended Monday, June 17, 2019

TOWN OF UNION CANINE CONTROL ORDINANCE

SECTION 1: AUTHORITY.

This Ordinance is adopted under the general authority of municipalities to enact ordinances under the Home Rule Amendment of the State of Maine Constitution, Article VII, Part Second, Section 1, 30 M.R.S.A. § 3001, and specific authority pursuant to 7 M.R.S.A. § 3950.

SECTION 2: PURPOSE.

The purpose of this Ordinance is to establish and enact a regulatory basis for insuring that all dogs residing in the Town of Union are licensed and immunized and are kept under the control of their owners, keepers, or custodians at all times so that they will not injure persons, damage property, or create a nuisance.

SECTION 3: DEFINITIONS.

- A. **Abandoned Dog.** An abandoned dog is an animal that has been deserted by its owner or keeper.
- B. **Animal Control Officer.** An Animal Control Officer (ACO) is appointed by the Municipal Officers of the Town of Union in accordance with 7 M.R.S.A. § 3947. The ACO shall have all of the powers provided under this Ordinance and the Ordinances of the Town of Union and the laws of the State of Maine.
- C. **Animal Shelter.** An animal shelter is a licensed facility that includes a physical structure or part of a physical structure that provides a temporary or permanent shelter to stray, abandoned, abused, or owner surrendered animals.
- D. **At Large.** At large shall mean off the premises of the owner and not under the control of any person by means of personal presence and attention or ability to manipulate and command the conduct of the dog.
- E. **Control or Voice Control.** Control or voice control means that the dog returns immediately to and remains by the side of the person responsible in response to verbal command from the responsible party. If the dog approaches or remains within ten (10) feet of any person other than the responsible party, then the dog is not considered under control or voice control and a violation of this Ordinance occurs unless such person (or in case of a minor child, an adult present with the child) has communicated to the responsible party by spoken word or gesture that such person consents to the presence of the dog.
- F. **Dangerous Dog.** Dangerous dog means a dog that:
 - (1). Bites a person or a domesticated animal who is not trespassing on the dog's owner's or keeper's premises at the time of the bite; or

TOWN OF UNION CANINE CONTROL ORDINANCE

(2). Causes a reasonable and prudent person who is not on the dog's owner's or keeper's premises and is acting in a reasonable and non-aggressive manner to fear imminent bodily harm or is put in apprehension of imminent bodily harm.

Dangerous dog does not include a dog certified by the State and used for law enforcement purposes. It does not include a dog that bites or threatens to assault an individual or animal who is on the dog's owner's or keeper's premises, if the dog has no prior history of assault and was provoked by the individual immediately prior to the bite or threatened assault.

G. Dog. Dog shall mean any of a large and varied group of domesticated animals, whether male or female and whether neutered or not, and is a member of the genus and species *canis familiaris*.

H. Nuisance. Nuisance shall mean to:

- (1). Annoy or disturb any reasonable person by causing unreasonable noise, smell, litter or other effect which unreasonably disturbs the peace of another;
- (2). Create litter off the premises of the owner unless the owner immediately removes and disposes of such litter, including feces, in a safe and healthful manner;
- (3). Cause damage to property other than the owners;
- (4). Chase automobiles, motorcycles, bicycles, or other vehicles.
- (5). Run at large.

I. Owner. Owner shall mean any person, association, corporation, or other entity which owns, keeps, harbors, has custody or possession and control of a dog.

J. Definitions Generally. The definitions set forth in 7 M.R.S.A. § 3907 are incorporated herein by reference, and as may be applicable.

SECTION 4: LICENSE, REGISTRATION AND IDENTIFICATION.

A. Licensing. Each owner or keeper of a dog that is six (6) months of age or over shall on or before January 1 of each year, or at such time as such dog becomes six (6) months old, cause such dog to be licensed with the Town Clerk in accordance with State mandated requirements. Dogs kept in licensed facilities shall require dog licenses in accordance with the provisions of 7 M.R.S.A. § 3939. Dogs covered under a kennel license shall comply with the tag requirements of 7 M.R.S.A. § 3923-C (4), including the kennel operator's contact number.

TOWN OF UNION CANINE CONTROL ORDINANCE

- B. Tags.** The Town Clerk shall provide, with each new license issued to a dog, a tag indicating the year the license was issued and such other information as may be required under 7 M.R.S.A. § 3922-B. The tag shall remain with the dog for as long as the dog is kept within the Town of Union. The owner shall make sure that the tag is securely attached to a collar of leather, metal, or other material of comparable strength, and that the collar is worn at all times by the dog for which the license was issued, except when hunting and training or in an exhibition. If the dog is hunting, training or in an exhibition, its owner shall produce proof of licensure within twenty-four (24) hours upon request by the Animal Control Officer. If a tag is lost, the owner shall obtain a new tag from the Town Clerk.
- C. Rabies Tags.** Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal, or other material of comparable strength, and must be worn by the dog for which the tag was issued, except when hunting, training or in an exhibition or on the premises of the owner, as required under 7 M.R.S.A. § 3923-B(2-A). If the dog is hunting, training or in an exhibition, its owner shall produce proof of licensure and proof of rabies immunization within twenty-four (24) hours upon request by the Animal Control Officer.

SECTION 5: CONTROL OF DOGS.

When off the premises of the owner, a dog shall be under the control of a person responsible for the dog's behavior except as follows:

- (1). Dogs used during hunting.
- (2). Dogs used for law enforcement.
- (3). Service dogs.
- (4). Dogs on private property with the property owner's permission.

SECTION 6: PROHIBITIONS AND VIOLATIONS.

- A. Noise – Barking Dogs.** No person shall keep or maintain a dog which continuously or repeatedly barks, howls, makes other loud or unusual noises, or in any manner creates a nuisance as that term is defined in this Ordinance, and disturbs neighborhoods and other persons through such unreasonable and objectionable noise. Barking noise or other nuisance activities shall not be permitted or allowed where the dog barks, howls, or makes other sounds common to its species which occur in a steady, rapid succession for twenty (20) or more minutes or occur intermittently for one (1) hour or more. This Section shall ~~also~~ not apply to farm animals kept on a property located in the Town of Union, trained working dogs

TOWN OF UNION CANINE CONTROL ORDINANCE

(while working), certified guard dogs, and other dogs that are performing their assigned duties (i.e., service dogs).

- B. Dogs Running At Large.** It shall be a violation of this Ordinance for any owner or keeper of a dog to allow that dog, whether licensed or unlicensed, to run at large except when used for hunting purposes.
- C. Trespass.** It shall be a violation of this Ordinance for any owner or keeper of a dog to allow that dog to enter onto the property of another after the owner has been warned by the Animal Control Officer or a Law Enforcement Officer that the animal was found on the property of another. The owner or keeper of the animal is responsible, at the owner's expense, for removing such animal found trespassing. The Animal Control Officer may, at the owner's expense, remove and control the animal if the owner fails to remove the animal after having been notified by the Animal Control Officer that the animal was trespassing or the animal is in immediate danger to itself, to person(s), or to another's property.
- D. Dangerous Dogs.** It shall be a violation of this Ordinance for any owner or keeper to harbor a dog which is considered dangerous under the definition in Section 3 of this Ordinance.
- E. Dogs in Heat.** It shall be a violation of this Ordinance for any owner or keeper of any female dog in heat to fail to keep the dog confined or on a leash if not on the property of the owner or keeper.
- F. Public Health Threats.** The owner or keeper of a dog that may have been exposed to a contagious or viral disease may be served with a quarantine notice. The owner or keeper shall confine and control the dog in accordance with the instructions in the notice. Failure to comply with the notice will be considered a violation of this Ordinance and may result in Court Ordered seizure of the quarantined animal and may subject the owner or keeper to the penalties in Section 13 below.

SECTION 7: BITING DOGS.

- A. Disposition.** The owner of a dog who knows or has been advised that the dog has bitten a person or domestic animal shall confine the dog or have it confined by itself in a secure enclosure for at least ten (10) consecutive days and shall notify the Health Officer/Animal Control Officer immediately of the time, place, and reason for confinement. During the period of confinement, the owner shall not destroy the dog or allow it to be destroyed.
- B. Examination.** The Health Officer/Animal Control Officer/Other Law Enforcement Officer shall have a dog which has been confined because of having bitten a person kept under observation for symptoms of rabies. At the end of the confinement

TOWN OF UNION CANINE CONTROL ORDINANCE

period, the Health Officer shall determine if he shall employ such expert assistance as may be necessary. If he deems it necessary to keep the animal confined for longer than the prescribed period, /he shall order it done. If the dog is found to be rabid, s/he shall notify the owner and person bitten, and shall have the dog destroyed immediately, and not shot in the head as the brain shall remain intact following any procedure recommended by Health and Welfare. The animal shall be destroyed by a licensed or qualified person (i.e., veterinarian, etc.). If the dog is not rabid, the owner shall thereafter muzzle the dog or keep it confined. All expenses incurred by the Town of Union in carrying out the procedure provided by this section shall be paid by the owner of the dog.

SECTION 8: SANITATION REQUIREMENTS.

An owner or keeper must remove and dispose of any feces left by the dog on any sidewalks, streets, public property, or private property (other than the property of the owner of animal or the person who has consented to the presence of the animal on his/her property), and dispose of such feces into appropriate litter receptacle. An owner whose animal is present on any property from which the animal feces is required to be removed pursuant to this section, must have in his or her possession a plastic bag or similar container not part of the human body for collecting and removing the feces. If the dog gets into or opens any garbage bags, bins, or other containers and/or causes garbage to be strewn in the immediate area, the owner or keeper of the dog shall be obligated to properly clean up the strewn garbage. This section does not apply to the property of the dog's owner or to a dog accompanying any handicapped person, who by reason of his/her handicap is physically unable to comply with the requirements of this section.

SECTION 9: CRUELTY.

No person shall harm in any way any dog on an owner's premises or under control of the owner except that the Animal Control Officer may initiate necessary actions to control any animal not maintained in accordance with this Ordinance, other local and State laws, whether on public or private property.

SECTION 10. ADMINISTRATION AND ENFORCEMENT.

- A.** The Animal Control Officer (ACO) shall enforce this Ordinance.
- B.** The ACO shall apprehend any dog at large and:
 - (1). Shall record its breed, color, sex, license number, and the name and address or telephone number of its owner.
 - (2). Shall attempt to locate and return the dog to the owner.

TOWN OF UNION CANINE CONTROL ORDINANCE

- (3). If the owner cannot be readily located, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees established by the Animal Shelter.
 - (4). Shall assess the penalties set forth in Section 13 below and, if the dog is unlicensed, require that it be licensed.
- C.** The ACO shall respond to and investigate reports of dogs barking or creating a nuisance and:
 - (1). Shall attempt to locate the owner;
 - (2). If the owner cannot be located within 24 hours of the initial report, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees assessed by the Animal Shelter;
 - (3). Shall assess the penalties set forth in Section 13 below, order that the nuisance be remedied and, if the dog is unlicensed, require that it be licensed.
- D.** The ACO shall respond to and investigate reports of dangerous dogs not properly confined or muzzled and:
 - (1). Shall attempt to locate the owner;
 - (2). If the owner cannot be located immediately, the ACO may transfer the dog to the Animal Shelter and issue a written notice that the owner may reclaim it by paying the fees assessed by the Animal Shelter;
 - (3). Shall assess the penalties set forth in Section 13 below, require that the dog be confined or muzzled at all times and, if the dog is unlicensed, require that it be licensed.

SECTION 11: IMPOUNDING.

- A. Authority.** The Animal Control Officer (ACO) shall apprehend any dog found at large and impound it in the Animal Shelter.

The ACO shall be empowered to impound a nuisance dog when the owner of the dog cannot be located. Whenever a dog confined by an outside fence or on a leash while on its owner's property disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise as specified in Section 6(A) and the owner of said dog cannot be located, the ACO shall be empowered to impound the dog.

The ACO may apprehend and impound any dangerous dog.

TOWN OF UNION CANINE CONTROL ORDINANCE

At the time of impoundment, the ACO shall register the breed, color, sex, license number, and name, address, or telephone number of the owner in a book kept for that purpose.

B. Refusing to Reclaim Dog. It is unlawful for a person to fail or refuse to reclaim his dog and pay the cost required by Section 11(C) below within one (1) week after receiving oral or written notice of its impoundment.

C. Notice and Reclamation. The ACO shall immediately notify the owner by telephone that the dog has been impounded by the ACO and that the owner may reclaim it by licensing the dog if it is unlicensed and paying the following fees:

- (1). Pick-up Fee - \$25.00.
- (2). Impoundment Fee - \$25.00.
- (3). Boarding Fee - \$10.00 per day.

If the impoundment is at an animal shelter the owner shall pay all costs required or imposed by the shelter, in addition to the above, and reimburse the Town for any costs assessed by the shelter to the Town.

If the owner of the dog is unknown or cannot be found, the ACO shall immediately notify the Town Office staff and post the notice on the bulletin board in the lobby of the Town Office.

D. Disposition of Unclaimed Dogs. The ACO shall place the dog with the Animal Shelter that the Town of Union has a contract with for the current year and if the dog is not reclaimed by the owner within seven (7) days then the dog shall be put up for adoption or destroyed.

SECTION 12: PROHIBITED AREAS.

Dogs shall be prohibited from the baseball field behind the Town buildings known as the Ralph Thorndike Field. The Animal Control Officer shall have the authority to apprehend, remove, and if necessary, impound any dog found within the baseball field area. The Selectmen shall have the authority to include other public areas where dogs may be excluded, after notice and a public hearing.

SECTION 13: PENALTIES.

The following penalties, which shall inure to the benefit of the Town of Union, shall apply:

A. Running at Large. The owner of a dog which is found running at large may be punished by a fine of not more than \$25.00 and issued a written warning for the

TOWN OF UNION CANINE CONTROL ORDINANCE

first offense. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.

- B. Running at Large Without Tags.** The owner of a dog which has no tags and is found running at large may be punished by a fine of not more than \$50.00 and issued a written warning for the first offense. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.
- C. Running at Large After Causing a Nuisance.** The owner of a dog which is found running at large who knows or has been advised that the dog has caused a nuisance and has failed to keep the dog on his premises or under his control or under the control of a person charged with that responsibility shall, for the first offense, be punished by a fine of not more than \$50.00. For the second and subsequent offenses, the owner shall be punished by a fine of not more than \$100.00.
- D. Disturbing the Peace.** The owner of a dog which disturbs the peace of any person by frequently and habitually barking, howling, or creating other noise as defined in Section 7 shall be punished by a fine of not more than \$50.00 for the first offense, \$100.00 for each subsequent offense.
- E. Dangerous Dogs.** The owner of a dangerous dog which is unconfined without a muzzle shall be punished by a fine of not more than \$250.00, and the Court may order the dog be destroyed immediately.
- F. Refusing to Reclaim Dog.** A person who fails or refuses to reclaim his dog and pay the cost required by Section 10 within one week after receiving oral notice of its impoundment shall be punished by a fine of not more than \$100.00.
- G. General Penalty.** A person who violates any other provision of the Ordinance shall be punished by a fine of not more than \$150.00.

SECTION 14: AMENDMENTS.

This Ordinance may be amended by a vote of the citizens of the Town of Union at a special or an annual town meeting.

SECTION 15: SEVERABILITY; EFFECTIVE DATE.

In the event any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect.

This Ordinance shall be in full force and effect at the adjournment of the town meeting at which the Ordinance or any amendment thereto has been approved.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF UNION, 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. CERTIFICATE OF COMPLIANCE	10
VIII. REVIEW OF SUBDIVISIONS AND DEVELOPMENT PROPOSALS	11
IX. APPEALS AND VARIANCES	11
X. ENFORCEMENT AND PENALTIES	13
XI. VALIDITY AND SEVERABILITY	14
XII. CONFLICT WITH OTHER ORDINANCES	14
XIII. DEFINITIONS	14
XIV. ABROGATION	19

ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Union, 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 Union, 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 Union, 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 Union 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 Union 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 Union, Maine.

The areas of special flood hazard, Zones A and AE, for the Town of Union, Knox County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Knox County, Maine," dated July 6, 2016 with accompanying "Flood Insurance Rate Map" dated July 6, 2016 with panels: 40D, 45D, 130D, 135D, 140D, 142D, 145D, 155D, 160D, 161D, and 162D, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Knox 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 XIII), 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. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Union, 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.2 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 Zone AE, from data contained in the "Flood Insurance Study - Knox 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), including information obtained pursuant to Article VI.K. and VIII.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 Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M.;
 4. 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 as set by the Board of Selectmen shall be paid to the Town Clerk 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 - Knox 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 VIII.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 an 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, or H. 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.
 - 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 IX 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 VII 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 so as 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 VIII.D.

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

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 VIII.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A and 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.

J. Accessory Structures - Accessory Structures, as defined in Article XIII, located within Zones A and 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 A and AE, 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 A and AE 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 Zones A and 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 crawlspaces 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 XIII;
- 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 A and AE 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 A and AE 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 A and AE, in and over water 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.

ARTICLE VII - 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 an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- 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 Elevation Certificate and the applicant's written notification; and,
 - 2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - 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 or 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 so as 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 IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of Union 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 it deems 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 IX 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 IX, 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 IX, 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 Code Enforcement Officer 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 X - 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 any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. 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 XI - 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 XII - 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 XIII - 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 - means a small detached structure that is incidental and subordinate to the principal structure.

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

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

Basement - means any area of the building having its floor subgrade (below ground level) on all sides.

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 subsection 4451, paragraph 1) and employed by a municipality to enforce all applicable comprehensive planning and land use laws and ordinances.

Development - means any man made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

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

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A or AE, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- b. adequately anchored so as not to 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 Zones A or 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..

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 - means:

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

Flood Insurance Rate Map (FIRM) - means 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 Flood-prone Area - means any 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 - means 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 - means 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 - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

Freeboard - means 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 that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

Functionally Dependent Use - means a use which 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 - means, 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 - means 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 - means 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 - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level - means, for purposes of 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) - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".

New Construction - means 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 - means a vehicle which 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. means 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 - means 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 - means 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 community's 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 XIV - 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 (c) Rev. 01/16
Prepared by DACF/JP

Town of Union, Maine

Metallic Mining Ordinance

1994



Mining Committee

Jim Bailey...Chairman
Roger Reuillard...Co-Chair
Vicki Harriman...Sec.
John Shepard
Lanny Deane
Pam Jensen...Typist

TABLE OF CONTENTS

<u>SECTION</u>	<u>PAGE</u>
SUBCHAPTER 1. GENERAL PROVISIONS	
1. Title, Purpose, and Applicability.....	1
A. Title.....	1
B. Purposes and Policies.....	1
C. Applicability.....	2
2. Definitions.....	2
3. Prohibition.....	11
4. Relation to Other Ordinances.....	11
5. Permits.....	11
6. Permit Criteria.....	12
7. General Procedure.....	12
8. Permit Conditions.....	13
A. Standard Conditions.....	13
B. Special Conditions.....	18
9. General Application Requirements.....	18
A. Filing.....	18
B. Certification of Application.....	18
C. Payment.....	19
D. Certification of Supporting Documents.....	19
E. Title, Right, and Interest.....	19
10. Permit Duration and Renewal.....	20
A. Permit Duration.....	20
B. Renewal Criteria.....	20
C. Renewal Applications Requirements.....	20
D. Applicability of New Siting and Design Standards.....	20
E. Delay of Expiration.....	20
11. Transfer of Permit.....	21
12. Variances.....	21
A. Variance Criteria.....	22
B. Information Required.....	22
C. Term and Renewal of Conditions.....	22
D. Fees for Variances.....	22
SUBCHAPTER 2. EXPLORATION AND ADVANCED EXPLORATION	
13. Purpose of Exploration and Advanced Exploration Requirements.....	22
14. Applicability of Exploration and Advanced Exploration Requirements.....	22
15. Requirements for Exploration Activities.....	23
A. Procedural Requirements.....	23
B. Standards.....	23
16. Requirements for Advanced Exploration Activities....	25
A. Standards.....	25
B. Submission Requirements.....	26

SECTION**PAGE****SUBCHAPTER 3. PRE-APPLICATION**

17.	Purpose of Pre-Application Requirements.....	26
18.	Applicability of Pre-Application Requirements.....	26
19.	Requirements for Pre-Application.....	26
	A. Request by Applicant.....	26
	B. Scheduling of Pre-Application Conference.....	26
	C. Pre-Application Submissions.....	26
	D. Baseline Monitoring Plan.....	27
	E. Environmental Review.....	33

SUBCHAPTER 4. MINING

20.	Purpose of Requirements for Mining.....	35
21.	Applicability of Requirements for Mining.....	35
22.	Application Processing Procedure.....	35
	A. Public Notice of Filing an Application.....	35
	B. Requests for Additional Information.....	36
	C. Draft Decision.....	36
	D. Jurisdiction.....	36
23.	Contents of Application.....	36
	A. General Information.....	36
	B. Baseline Monitoring Studies.....	38
	C. Environmental Impact Report.....	38
	D. Operating Plan.....	40
24.	Siting Standards.....	47
	A. Siting Within Floodplains.....	47
	B. Siting Over Unstable Areas.....	47
	C. Setbacks.....	47
25.	Design Standards.....	48
	A. Ore Leaching Facilities.....	49
	B. Wildlife Exclusion.....	49
	C. Stormwater.....	50
26.	Operational Standards.....	50
	A. Site Monitoring.....	50
	B. Temporary Cessation of Mining.....	50
	C. Reclamation.....	50
	D. Ore Leaching Facilities.....	51
	E. Blasting and Noise Requirements.....	52
	F. Annual Report.....	52
	G. Wildlife Reports.....	54
	H. Financial Assurance.....	54
	I. Performance Requirements.....	60
27.	Corrective Action.....	63
	A. Corrective Action Trigger.....	63
	B. Interim Measures.....	63
	C. Release From Corrective Plan.....	63
	D. Corrective Action Plan Development Schedule.....	63

SECTION**PAGE**

E. Corrective Action Plan Development and Submission.....	64
F. Corrective Action Plan Approval.....	64
G. Corrective Action Plan Implementation.....	65
H. Corrective Action Plan Completion.....	65
I. Enforcement Reserved.....	66

SUBCHAPTER 5. MINE WASTE TREATMENT AND MANAGEMENT

28. Purpose of Mine Waste Treatment and Management Requirements.....	66
29. Reserved.....	66
30. Reserved.....	66
31. Waste Characterization.....	66
A. Testing Frequency.....	66
B. Mine Waste Evaluation.....	66
C. Test Methods.....	67
D. Mine Waste Characterization Report.....	68
E. Mine Waste Classification.....	68
32. General Criteria for Mine Waste Units.....	68
A. Performance Standards.....	68
B. Runon/Runoff Control Systems.....	69
C. Design Alternatives.....	69
D. Off-Site Utilization.....	70
E. Waste Minimization.....	70
33. Location, Design, Construction, and Operating Criteria for Mine Waste Units.....	70
A. Location Standards.....	70
B. Minimum Design Standards.....	72
C. Engineering Design.....	73
D. Engineering Report.....	76
E. Design Plans and Cross-Sections.....	78
F. Construction Standards.....	79
G. Operations.....	80
34. Monitoring Program.....	82
A. Groundwater.....	82
B. Surface Water and Sediments.....	83
C. Air.....	84
35. Closure and Post-Closure Maintenance Criteria.....	84
A. Closure Maintenance Criteria.....	84
B. Post-Closure Maintenance Criteria.....	88

SUBCHAPTER 6. ADMINISTRATION AND ENFORCEMENT

36. Applicability of Subchapter.....	91
37. Authority.....	91
38. Applicability of Ordinance.....	92
39. Severability.....	92
40. Effective Date.....	92

<u>SECTION</u>	<u>PAGE</u>
41. Savings Clause.....	92
42. Permit Applications.....	93
43. Public Access to Information.....	93
44. Fees To Be Paid By Applicant.....	94
A. Exploration Fee.....	94
B. Pre-Application Fee.....	94
C. Initial Permit Application Fee.....	94
D. Variance Request.....	94
E. Permit Renewal, Transfer, or Modification.....	94
F. Corrective Action.....	94
G. Annual Fee.....	94
H. Actual Direct Costs.....	95
I. Payment Procedure.....	95
45. Computation and Enlargement of Time.....	95
46. Board Hearing Procedures.....	95
A. Procedures.....	95
B. Notices of Public Hearings.....	96
C. Continuance of Hearings.....	96
47. Appeals.....	96
48. Enforcement.....	96
49. Penalties.....	97
50. Mining Commission.....	98
A. Composition.....	98
B. Appointment.....	98
C. Terms of Office.....	98
D. Vacancies.....	99
E. Removal.....	99
F. Compensation.....	99
G. Officers.....	99
H. Meetings, Quorum, Agenda.....	100
I. Powers and Duties.....	101
J. Disbanding.....	101

**TOWN OF UNION
METALLIC MINING ORDINANCE**

SUBCHAPTER 1. GENERAL PROVISIONS

Section 1. Title, Purpose, and Applicability

A. Title. This Ordinance shall be known and may be cited as the "Union Metallic Mining Ordinance".

B. Purposes and Policies. The Town of Union has enacted this Ordinance for the purpose of protecting the public health, safety, and welfare of the inhabitants of the Town of Union and for the purpose of protecting the Town of Union's environment. This Ordinance is enacted pursuant to the Home Rule powers bestowed upon the Town of Union by the Constitution and the laws of the State of Maine. It is intended to provide a comprehensive scheme for metallic mining regulation at the local level in furtherance of the policies contained in federal and state laws for the protection of human health and the environment.

This Ordinance is the result of a lengthy and thorough consideration of the alternatives available to the Town of Union for the regulation of metallic mining as may be necessary to protect human health and the environment, and for the integration of this Ordinance with applicable federal, state, and local laws and regulations.

In addition to the foregoing, the purposes and policies of this Ordinance are:

1. To provide for the protection of groundwater, surface water, and air quality in the Town of Union;
2. To conserve and protect the Town of Union's natural resources, and to preserve property values, recreational opportunities, and the quality of life of the inhabitants of the Town of Union;
3. To provide for the protection of public and private drinking water sources in the Town of Union;
4. To provide for surface water quality which will enhance the propagation of fish and wildlife, and will provide for recreation in and on the surface waters within the Town of Union;
5. To ensure that metallic mining activities are compatible with other land and water uses in the Town of Union;
6. To encourage reliance on those metallic mining activities which best prevent or minimize the potential for pollutant releases into the environment, and to control and monitor through a permitting system the nature and extent of pollution from metallic mining activities that can be discharged or released into the environment;

7. To foster local control of the environment through the exercise of the Town of Union's Home Rule authority by bestowing certain powers and duties upon the Town of Union Planning Board, by providing procedures to control and remediate unpermitted releases to the environment, by ensuring the Town of Union has adequate financial resources to evaluate permit applications and conduct necessary oversight activities, and by providing enforcement authorities to ensure compliance with permits and Board actions is maintained; and;

8. To ensure the metallic mining companies and not the taxpayers of the Town of Union bear the expenses associated with protecting human health and the environment from the adverse impacts that may result from mining activities.

C. This Ordinance shall be liberally construed to effectuate its purposes and policies.

D. This subchapter applies to the following subchapters:

Subchapter 2. Exploration and Advanced Exploration

Subchapter 3. Pre-Application

Subchapter 4. Mining

Subchapter 5. Mine Waste Treatment and Management

Subchapter 6. Administration and Enforcement

Section 2. Definitions

A. Acid Rock Drainage. "Acid rock drainage" means the drainage that occurs as a result of natural oxidation of sulfide minerals contained in rock which is exposed to air and water.

B. Advanced Exploration or Advanced Exploration Activity. "Advanced exploration" or "advanced exploration activity" means any activity involving the bulk sampling of metallic mineral deposits, or any metallic mineral exploration activities which exceed those defined as exploration activities.

C. Advanced Exploration Permit. "Advanced exploration permit" means a permit to conduct metallic mineral advanced exploration activities.

D. Advanced Exploration Site. "Advanced exploration site" means the area and facilities within which advanced exploration or activities incidental thereto occur, or may reasonably be expected to occur.

Sec 2

E. Ambient Air. "Ambient air" means all air outside of buildings, stacks, or exterior ducts.

F. Aquifer. "Aquifer" means a geologic formation composed of rock or sand and gravel that stores and transmits significant quantities of recoverable water.

G. Baseline Monitoring Plan. "Baseline monitoring plan" means a monitoring plan that will define the existing site conditions for a specific location and shall include, but is not limited to, characterizations of the following resources: wildlife, surface water and groundwater quality and quantity, air quality, and socioeconomic characteristics.

H. Beneficiation. "Beneficiation" means the dressing or processing of ore for the purposes of (1) attaining the desired size consistent for the ore or product; (2) removing unwanted constituents; or (3) improving the quality, purity, or assay grade of a desired product.

I. BEP. "BEP" means the Maine Board of Environmental Protection.

J. Board. "Board" means the Town of Union Planning Board.

K. Bulk Sampling. "Bulk sampling" means the removal of samples for the purpose of testing to determine the feasibility, method, or manner of extraction and/or processing of metallic minerals. Such testing may include milling or grinding tests, and/or pilot plant and processing tests. Methods of bulk sampling may include, but are not limited to, drilling and boring, digging of shafts and tunnels, or digging of pits and trenches. For purposes of this Ordinance, bulk sampling of metallic mineral deposits is included in advanced exploration.

L. Closure. "Closure" means the process of closing out mine waste units pursuant to a closure plan approved by the Board.

M. Coastal Wetlands. "Coastal wetlands" means all tidal and subtidal lands, including all areas below any identifiable debris line left by tidal action; all areas 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 lowland which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service [Ocean Survey]. Coastal wetlands may include portions of coastal sand dunes.

N. Complex Hydrogeology. "Complex hydrogeology" means subsurface hydrogeological conditions such that it is not technically feasible to monitor groundwater to detect migration of contaminants from the mine waste unit to the uppermost aquifer, or it is not technically feasible to conduct corrective action.

O. Corrective Action. "Corrective action" means action taken by the permittee to correct a violation or to meet a performance requirement in a metallic mineral mining permit or advanced exploration permit, or other law.

P. DEP. "DEP" means the Department of Environmental Protection composed of the Board and the Commissioner.

Q. Director of the Survey. "Director of the Survey" means the Director of the Maine Geological Survey.

R. Displacement. "Displacement" means the relative movement, measured in any direction, of the two sides of a fault.

S. Drilling. "Drilling" means the making of holes with a drill for exploration of a metallic mineral deposit.

T. Drill Hole. "Drill hole" means the cavity created by drilling.

U. Endangered or Threatened Species. "Endangered or threatened species" means any species of fish or wildlife that the State of Maine Commissioner of Inland Fisheries and Wildlife has designated as endangered or threatened.

V. Environmental Impact Report. "Environmental impact report" (EIR) means a detailed study describing and analyzing the environmental impacts of a mining or advanced exploration activity, discussing ways to mitigate or avoid such impacts, and evaluating reasonable alternatives to the proposed activity.

W. Environmental Review. "Environmental review" means a process of assessing the environmental impacts of a proposed mining activity.

X. Exploration. "Exploration" or "exploration activity" means any activity engaged in for purposes of determining the location, extent, and composition of metallic mineral deposits, provided that such activities are limited to test boring, test drilling, hand sampling, the digging of test pits having a maximum surface opening of 100 square feet, or other test sampling methods which cause minimum disturbance of soil and vegetative cover. Exploration activities shall not include advanced exploration activities.

Sec 2

Y. Exploration Site. "Exploration site" means the area within which exploration or activities incidental thereto occur, or may reasonably be expected to occur.

Z. Extraction. "Extraction" means the removal of ores, minerals, overburden, and waste rock, but does not include the injection of leaching solutions, lixiviants, or solutions to solubilize or extract metallic minerals in place (in situ) from existing geologic formations.

AA. Fault. "Fault" means a fracture along which rock formations on one side have been displaced with respect to those on the other side.

BB. Floodplain. "Floodplain" means the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of offshore islands, which are inundated by a flood that has a 1 percent or greater chance of recurring in any year or a flood of a magnitude equalled or exceeded once in 100 years on the average.

CC. Fractured Bedrock Aquifer. "Fractured bedrock aquifer" means a consolidated rock formation which is fractured and which is saturated and recharged by precipitation percolating through overlying sediments to a degree which will permit wells drilled into the rock to produce a sufficient water supply for domestic use.

DD. Freshwater Wetlands. "Freshwater wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

1. Of 10 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;

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; and

3. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria.

EE. Fugitive Emissions. "Fugitive emissions" means those emissions of air contaminants which do not pass through a stack, flue, chimney, or vent. For purposes of this Ordinance, fugitive emissions include, without limitation, dust arising from an advanced exploration or mining activity, or from the advanced exploration or mine site.

FF. Great Pond. "Great Pond" means any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres. This definition shall apply to any natural body of water in excess of 10 acres artificially increased to less than 30 acres.

GG. Groundwater. "Groundwater" means all the waters found beneath the surface of the earth which are contained within or under this state or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the state.

HH. Hazardous Waste. "Hazardous waste" means a waste substance or material, in any physical state, designated as hazardous by the Maine Board of Environmental Protection.

II. Holocene. "Holocene" means the most recent epoch of the Quaternary period, extending from approximately 10,000 years ago to the present.

JJ. In-Situ Leaching. "In-situ leaching" means the leaching of minerals occurring in the situation in which they were originally formed or deposited. For purposes of this Ordinance, in-situ leaching is not considered mining.

KK. Land Clearing Debris. "Land clearing debris" means solid wastes resulting from the clearing of land and consisting solely of brush, stumps, soil material, and rocks."

LL. Leachate. "Leachate" means any liquid, including any suspended components in the liquid, that has passed through or emerged from any material.

MM. Leak Detection System. "Leak detection system" means a system for the detection of leaks through a liner consisting of a high permeability layer that contains a collection and transport network over a low permeability layer which impedes the downward movement of leachate.

NN. Liner. "Liner" means a continuous layer of man-made or reconstructed natural materials, or a combination thereof, which restricts the vertical or lateral movement of liquids.

OO. Metallic Minerals. "Metallic minerals" or "metallic mineral deposit" means any mineral containing any metal, including, but not limited to, minerals containing gold, silver, iron, manganese, copper, lead, zinc, tin, chromium, cobalt, nickel, molybdenum, platinum group elements, aluminum, arsenic, antimony, or bismuth as their valuable constituent(s). Metallic minerals do not include common rock-forming minerals such as quartz, calcite, dolomite, feldspar, pyroxenes, amphiboles, zeolites, clays, or micas. For purposes of this Ordinance, "metallic minerals" does not include thorium or uranium.

Sec 2

PP. Minerals. "Minerals" means all naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel, and water.

QQ. Mine Site. "Mine site" means the area and facilities owned, leased, or otherwise subject to the possessory control of a mining company within which mining or activities incidental thereto are to occur whether contiguous or non-contiguous. The mine site includes, but is not limited to, the excavation, tailings, mine waste units, waste rock or overburden, storage areas, mills, conveyors, concentrators, crushers, screens, pipes, canals, dams, ponds, lagoons, ditches, roads, access roads, utility facilities or equipment, pollution control facilities including surface and subsurface waste water disposal systems, railroad tracks or sidings, administrative or other buildings, or improvements, structures, rights-of-way, or easements appurtenant or related to any of the foregoing.

RR. Mine Waste. "Mine waste" means all waste materials (solid, semi-solid, or liquid) associated with exploration, advanced exploration, and mining activities. Such wastes include, but are not limited to, rock, tailings, and other process waste such as leachate and wastewater treatment plant residuals. Land clearing debris, woodwaste, wastes from solvent extraction and electrowinning are not considered mine waste for purposes of this Ordinance.

SS. Mine Waste Unit. "Mine waste unit" means any land area, structure, location, equipment, or combination thereof on or in which mine wastes are managed. A land area or structure shall not become a mine waste unit solely because it is used to store (for 90 days or less) wastes generated on the same site.

TT. Mining or Mining Activity. "Mining" or "mining activity" means any activity or process that is for the purpose of extraction or removal of metallic minerals, and includes processes used in the separation or extraction of metallic minerals from other material including, but not limited to, crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization; or precipitation; mine waste handling and disposal; and processes substantially equivalent, necessary, or incidental to any of the foregoing. Mining or mining activity does not include exploration, advanced exploration, or thermal or electric smelting.

UU. Mining Permit. "Mining permit" means a permit issued by the Town of Union Planning Board to conduct mining activities.

VV. Mitigation. "Mitigation" means any action taken, or not taken, in order to avoid, minimize, rectify, reduce, eliminate, or compensate for adverse environmental impacts. Such actions include, but are not limited to: (1) avoiding an impact altogether by not taking

Sec 2

a certain action or parts of an action; (2) minimizing an impact by limiting the magnitude or duration of an activity or by controlling the timing of an activity; (3) rectifying an impact by repairing, rehabilitating, or restoring the affected environment; (4) reducing or eliminating an impact over time through preservation and maintenance operations during the life of the project; and (5) compensating for an impact by replacing affected resources or environments, or providing substitute resources or environments.

WW. Neat Cement. "Neat cement" means a slurry composed of Portland cement and water.

XX. Net Acid Producing Potential. "Net acid producing potential" means the difference between the neutralization potential and acid generation potential of a waste expressed as calcium carbonate equivalents.

YY. Ore. "Ore" means any mineral or an aggregate of minerals which can be extracted from the earth economically. For purposes of this Ordinance, "ore" also means a metallic mineral deposit and may also include previously disposed of or abandoned mine waste from which a metallic mineral or minerals of economic value can be commercially extracted.

ZZ. Ore Leaching. "Ore leaching" means the intentional separation, selective removal, dissolving-out, or extraction of soluble metals, salts, or other constituents from an ore by the action of percolating water or other percolating solution. For purposes of this Ordinance, ore leaching may include, but is not limited to, heap leaching, vat leaching, agitation leaching, dump leaching, and bioleaching.

AAA. Overburden. "Overburden" means earth and other materials naturally lying over the product to be mined.

BBB. Permittee. "Permittee" means a person who has received an advanced exploration permit or mining permit in accordance with this Ordinance.

CCC. Person. "Person" means an individual, firm, corporation, municipality, quasi-municipal corporation, state agency, federal agency, or other legal entity.

DDD. Post-Closure Maintenance. "Post-closure maintenance" means all activities undertaken at a closed mine waste unit to maintain the integrity of containment features and to monitor compliance with applicable performance standards and permit conditions.

EEE. Pre-Application Conference. "Pre-application conference" means an initial conference for purposes of discussing the proposed advanced exploration or mining activity contemplated by the applicant.

Sec 2

FFF. Pre-Existing Data. "Pre-existing data" means data collected prior to a pre-application conference.

GGG. Private Drinking Water System. "Private drinking water system" means a well, spring, or other source of groundwater for human or domestic animal consumption.

HHH. Project Vicinity. The area within a radius of ten (10) miles of a metal mining site.

III. Property Boundary. "Property boundary" means any boundary between parcels of land owned or leased by different persons or groups of persons.

JJJ. Protected Natural Resource. "Protected natural resource" means coastal sand dune systems, coastal wetlands, significant wildlife habitat, fragile mountain areas, freshwater wetlands, great ponds or rivers, streams or brooks, as these terms are defined in applicable state law.

KKK. Public Drinking Water System. "Public drinking water system" means a well, spring, or other source of groundwater which has at least 15 service connections or serves an average of at least 25 individuals daily at least 30 days out of the year.

LLL. Qualified Professional. "Qualified professional" means a scientist, engineer, or professional in a technical discipline with sufficient training and experience to enable the individual to make sound professional judgments regarding conducting technical analyses or regarding the design, construction, and operation of regulated units and ancillary structures.

MMM. Reclamation. "Reclamation" means the rehabilitation and continued maintenance of the area of land affected by mining under a reclamation plan which can include, but is not limited to, grading and land shaping, the creation of lakes or ponds, the planting of forests, the seeding of grasses and legumes, the planting of crops for harvest, and the enhancement of wildlife and aquatic resources.

NNN. Responsible Officer. "Responsible officer" means:

1. A person holding a principal executive position as established by the charter or by-laws of the corporation;
2. A general partner or the proprietor, as appropriate, if a partnership or sole proprietorship; or
3. A principal executive officer or ranking elected official of a municipal, state, federal, or other public agency.

Sec 2

000. River, Stream, or Brook. "River, stream, or brook" means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water-borne deposits on exposed soil, parent material, or bedrock.

PPP. Significant Sand and Gravel Aquifer. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water which are likely to provide drinking water supplies.

QQQ. Scoping Process. "Scoping process" means the process of determining the factors and issues to be addressed in an environmental impact report.

RRR. Selectmen. "Selectmen" means the Selectmen of the Town of Union.

SSS. Site. "Site" means an advanced exploration site or a mine site, depending upon the nature of the activity as determined by the Town of Union Planning Board.

TTT. State Lands. "State lands" means all lands owned or held in trust by the state or in which the state holds an interest, including inland and tidal submerged lands and waters.

UUU. Structure. "Structure" means building, structure, or permanent structure as defined under any of the following provisions: 12 M.R.S.A. 682(3) and (4), 38 M.R.S.A. 482(6), and 38 M.R.S.A. 480-B(7).

VVV. Surface Impoundment. "Surface impoundment" or "impoundment" means a mine waste unit or part of such a unit that is a natural topographic depression, man-made excavation, or diked area formed of earthen or other materials that is designed to hold an accumulation of liquid and solid wastes.

WWW. Tailings. "Tailings" means those portions of a metallic mineral deposit remaining after extraction of minerals by physical or chemical means.

XXX. Transfer of Ownership. "Transfer of ownership" means a sale, a lease, a sale of over 50% of the stock of a corporation to one legal entity, or a merger or consolidation where the surviving corporation is other than the original licensee.

YYY. Unstable Area. "Unstable area" means any area where mass movement of earth materials such as landslides, rockfalls, mudslides, slumps, earth flows, subsidence, or debris flows are likely to occur.

ZZZ. Uppermost Aquifer. "Uppermost aquifer" means the geologic formation that is an aquifer nearest the natural ground surface, as well as lower aquifers that are hydraulically interconnected with this aquifer.

AAAA. WAD Cyanide. "WAD cyanide" means the cyanide concentration as determined by Method C. Weak Acid Dissociable Cyanide, D2036-082, Part 31, of the American Society for Testing and Materials Book of Standards.

BBBB. Waste Rock. "Waste rock" means rock which has been removed during mining or advanced exploration but does not contain sufficient metallic minerals to constitute ore.

CCCC. Waters of the State. "Waters of the State" means any and all surface and subsurface waters which are contained within, flow through or under, or border upon this State or any portion thereof, including the marginal and high seas, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State.

DDDD. Woodwastes. "Woodwastes" means brush, stumps, lumber, bark, woodchips, shavings, slabs, edgings, slash, and sawdust, which are not mixed with other solid or liquid waste.

Section 3. Prohibition

It shall be unlawful for any person to establish, construct, alter, operate, or otherwise engage in any activity at a mine site, advanced exploration site, or exploration site contrary to this Ordinance, a permit, or permit requirement or condition pursuant to this Ordinance, any other permit, requirement, or condition pursuant to any other Town of Union Ordinance, or any other applicable rule, regulation, or law.

Section 4. Relation to Other Ordinances

Nothing herein shall repeal or supersede any additional requirements imposed by the Town of Union. In the event any requirements of this Ordinance differ from the requirements of any other Ordinance of the Town of Union, the more stringent of the requirements shall apply. No enforcement authority set forth herein is intended to waive or limit any other authority of the Town of Union.

Section 5. Permits

A permit is required under this Ordinance for advanced exploration, when applicable, and mining activities.

Section 6. Permit Criteria

The Board shall approve, or approve with conditions, an application under this Ordinance upon finding the applicant has met all applicable criteria under this Ordinance. In addition, the applicant shall: (1) affirmatively demonstrate that the reclamation plan will result in reclamation of the mine or advanced exploration site consistent with this Ordinance; (2) certify it has not forfeited sureties posted for any mining or advanced exploration activity; and (3) affirmatively demonstrate that the issuance of the permit will not cause or contribute to a violation of law. In determining whether issuance of a permit will cause or contribute to a violation of law, the Board shall consider any prior violation, suspension, or revocation of a permit issued to the applicant or any person related to the applicant and any other environmental enforcement history of the applicant or related person. The Board may require the applicant to present evidence of changed conditions or circumstances sufficient in the judgment of the Board to warrant issuance of the permit notwithstanding any prior violation, suspension, or revocation.

Section 7. General Procedure

A. Exploration. Depending upon the type, extent, and location of the activity proposed, approvals pursuant to other Ordinances may be required by the Board or the Town of Union. The requirements for exploration are discussed in Section 15.

B. Advanced Exploration or Mining. This Ordinance authorizes permits for advanced exploration and mining. The following is a general description of the application process.

1. Baseline Monitoring. If a mining project is proposed, the applicant submits a baseline monitoring plan. If an advanced exploration project is proposed, the applicant submits such a plan when required by the Board on a case-specific basis. No baseline monitoring program shall be conducted without prior approval of the Board.

2. Pre-Application Conference. The applicant submits information concerning the proposed project to the Board and requests a pre-application conference. The Board and/or its representatives meet with the applicant to determine the nature of the project, identify areas of concern, and specify additional submissions required.

3. Environmental Review Process. If the proposal is for a mining activity, or if the proposal is for an advanced exploration activity that the Board has determined requires the environmental review process:

a. The applicant prepares and submits a draft scoping document for an Environmental Impact Report (EIR).

b. The Board makes the draft scoping document available for public review and comment.

c. If the Board determines the scoping document is acceptable, the applicant prepares an EIR and submits it as part of the permit application.

4. Permit Application. An applicant for an advanced exploration or mining permit files an application in accordance with the requirements of this Ordinance, including a completed permit application form and all supporting materials.

Section 8. Permit Conditions

A. Standard Conditions

1. Relation of Permit to Application. The plans, specifications, descriptions, and other documentation submitted by the permittee in support of the application, and approved by the Board in issuing the permit, constitute terms of the permit which must be complied with by the permittee. Any variation or change in the plans, specifications, descriptions, or other documentation must be approved by the Board prior to implementation. Upon completion of any construction or alteration, the permittee must submit to the Board a written certification by a registered professional engineer that the site has been constructed or altered in accordance with the terms of the permit.

2. Duty to Comply. The permittee must comply with all conditions of the permit. Any noncompliance constitutes a violation of law and is grounds for enforcement action, for permit suspension or revocation, and for denial of a renewal application.

3. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must submit an application for renewal at least 180 days, but no earlier than 210 days, prior to the expiration date.

4. Duty to Halt or Reduce Activity. It shall not be a defense in an enforcement action that halting or reducing the permitted activity would have been necessary in order to maintain compliance with the conditions of the permit.

5. Duty to Mitigate. The permittee shall take all steps to minimize or correct any adverse impact on the environment resulting from noncompliance with the permit.

6. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems which are installed or used by the permittee to achieve compliance with the conditions of the permit.

Sec 8

7. Solid Waste Disposal Facilities. All solid waste disposal facilities are required to accept only solid waste which is subject to recycling and source reduction programs at least as effective as those imposed by state law.

8. Permit Actions. The Board may, upon request by the permittee or on its own initiative, modify the permit. The Board shall hold a public hearing and provide an opportunity for public comment prior to taking such action. The filing of a request by the permittee for a permit modification shall not stay any permit condition. Any request for a significant permit modification shall be processed as if it were an application for a new permit, except only those permit terms at issue shall be considered in the proceeding. The permit may also be revoked in accordance with Section 48 of this Ordinance.

9. Property Rights. The permit does not convey any sort of property right or exclusive privilege.

10. Duty to Provide Information. The permittee shall furnish any information which the Board requests in order to determine whether cause exists for modifying, suspending, or revoking the permit; or to determine compliance with the permit. The permittee shall also, upon request, furnish to the Board copies of records required to be kept by the permittee, and not otherwise required to be filed with the Board. In addition to the annual report submitted in accordance with Section 26(F), the Board may require other documentation as may be necessary to ensure compliance with this Ordinance.

11. Monitoring and Records

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

b. Records of the monitoring information shall include the following:

- I. Analytical results;
- II. The detection limits for each analyte;
- III. Descriptions of sample points and of sampling method or methods.
- IV. The dates that samples were collected, received, prepared, and analyzed;
- V. Chain-of-custody records;
- VI. Results of laboratory control samples (method blanks/initial calibration reference standards);

VII. Results of matrix-specific spikes, matrix-spiked duplicates, or reference standards (if applicable); and

VIII. Interpretive summary of monitoring results, including statistical analysis of data, if applicable.

c. The permittee shall retain, at the site or at such other location as approved by the Board, the following records for a period of at least 10 years from the date of the sample, measurement, report, or application. This period may be extended by request of the Board at any time, and is automatically extended for the period of any enforcement action:

I. Calibration and maintenance records;

II. Strip chart recordings for continuous monitoring instrumentation; and

III. Records of all data used to complete the application and copies of all reports required by the permit.

d. The permittee shall retain the following monitoring records for the life of the facility, including the closure and post-closure periods: groundwater monitoring, waste characterization, surface water monitoring, and sediment monitoring records.

12. Monitoring Reports. Monitoring results shall be reported to the Board at the intervals specified in the permit.

13. Noncompliance and Occurrence Reporting. The permittee shall report to the Board, Selectmen, Commission members, and Code Enforcement Officer any noncompliance and any unpermitted or otherwise unlawful release or discharge of pollutants, fire, or explosion at the site. Information shall be provided orally, immediately to the Code Enforcement Officer, if available, and in writing within the next three working days to the above mentioned. If the Code Enforcement Officer is unavailable, information shall be provided to the Selectmen, Planning Board members, or Mining Commission members as available. If the noncompliance, release, or discharge of pollutants or cause of fire or explosion has not been corrected, the anticipated time it is expected to continue shall be given, together with the steps taken or planned to reduce, eliminate, and prevent recurrence. The written submission shall include the following:

a. Name, address, and telephone number of the owner or operator;

b. Name, address, and telephone number of the facility, if applicable;

c. Date, time, type, and description of incident;

- d. Name and quantity of any waste(s) involved;
- e. The extent of injuries, if any;
- f. An assessment of actual or potential hazards to the environment and human health inside and outside the site, when applicable; and
- g. Estimated quantity and disposition of any pollutants released or discharged.

14. Other Information. When the permittee becomes aware that it has failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Board, it shall promptly submit such facts or information to the Board.

15. Signatory Requirement. All applications, reports, or information submitted to the Board shall be signed by a responsible officer. Such responsible officer shall make the following certification:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments thereto and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate, and complete. I am aware there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

16. Construction/Operation Within 4 Years. If construction or operation at the site is not begun within 4 years of the date the permit is issued, the permit shall expire and the applicant shall reapply to the Board for a permit. No construction or operation may be undertaken until a new permit is granted. The new application shall state the reasons why construction or operation was not begun within 4 years from the granting of the initial permit, and the reasons why construction or operation will be able to begin within 4 years from the granting of the new permit. The new application may incorporate, by reference, information submitted in the initial application, but must include all information required by law or Ordinance at the time the new application is submitted.

17. Commencement of Operations. The permittee may not commence work at the site, or conduct activities in or associated with the new, altered, or modified portion of the site, until:

- a. The permittee has submitted to the Board by certified mail or hand delivery a letter signed by the permittee and a State of Maine Registered Professional Engineer stating that the site has been constructed, altered, or modified in compliance with the permit.

Sec 8

b. The Board and/or its representatives have inspected the site and found it to be in compliance with the conditions of the permit. If within 30 days of the date of submission of the letter required by a. above the permittee has not received notice from the Board of intent to inspect, prior inspection is waived and the permittee may commence activity at the site.

c. All applicable fees due the Town of Union are paid in full.

18. Other Permits and Licenses. The applicant shall secure and comply with all applicable federal, state, and local licenses, permits, authorizations, approvals, conditions, agreements, and orders prior to and during construction, alteration, modification, operation, reclamation, and closure as appropriate.

19. Bid Specification. A copy of the approval must be included in or attached to all contract bid specifications for the site.

20. Contractor Copy. The permittee shall not direct or allow any work within the scope of the permit to be done by a contractor until the contractor(s) has been given a copy of the approval. The permittee shall certify to the Board that the contractor(s) has received a copy of the approval.

21. Annual Fee. The applicant shall pay the annual fee as required by Section 44 of this Ordinance. The permit is not effective until and unless the annual fee has been paid.

22. Inspection and Entry. The Board and/or its representatives, not limited to, the Code Enforcement Officer, shall be allowed access to the site and affected area during business hours, and at such other times as the Board deems necessary, for the purpose of performing tests or monitoring, collecting samples, conducting inspections, examining records relating to the site, or developing or enforcing this Ordinance or any other Town of Union Ordinance.

23. Financial Responsibility. The permittee shall not commence construction or continue operation at the site until and unless:

- a. All required insurance coverage is in force and effect.
- b. All assurance of insurance, reclamation, corrective action, and closure and post-closure funding is made as required.
- c. All financial responsibilities are met as required.
- d. All cash deposits or payments and letters of credit are delivered as required.

24. Preconstruction. All preconstruction terms and conditions must be met before any construction begins.

25. Advertising. Advertising relating to matters included in the permit application may refer to the approval only if it notes that the approval has been granted WITH CONDITIONS, and indicates where copies of those conditions may be obtained.

26. Transfer of Ownership. Unless otherwise provided in the permit, the permittee shall not sell, lease, assign, or otherwise transfer the site or any portion thereof, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the permittee as incorporated in the permit, without prior written approval of the Board in accordance with Section 11 of this Ordinance.

27. Deed Notation. Whenever any site, or portion thereof, previously used for mining or advanced exploration is transferred by deed, the following shall be expressly stated in the deed:

a. The type(s) of waste unit(s) located on the site, the dates of establishment and closure of each, and a description of the location, composition, extent, and depth of waste deposited in each; and

b. The date of issuance of the permit, number of such permit, and names of issuing agencies.

B. Special Conditions. The Board may place special terms and conditions, without limitation, on a permit issued under this Ordinance. However, terms and conditions shall specify particular means of satisfying minor or easily corrected problems, relating to compliance with this Ordinance and with the applicable law, and shall not substitute for or reduce the burden of proof on the applicant to affirmatively demonstrate to the Board that each of the applicable standards has been met.

Section 9. General Application Requirements

A. Filing. An applicant for a permit shall file 20 copies of an application unless otherwise specified by the Board in accordance with the requirements of this Ordinance, including a completed permit application form and all supporting materials. All drawings must be done on paper no smaller than 8½ x 11 inches and no larger than 36 x 48 inches in size unless otherwise approved. All applications shall contain a designation of a person in the State of Maine on whom all orders and notices may be served and to whom all other correspondence regarding the application should be sent.

B. Certification of Application. The application must be signed and certified by a responsible officer of the applicant. The signing of the application constitutes certification thereof in accordance with

the certification statement on the application form. The property owner(s) must also sign the application indicating knowledge of the proposed activity.

C. Payment. With the application, an applicant must remit the appropriate application fees by certified check or money order made payable to the Town of Union as provided in Section 44 of this Ordinance.

D. Certification of Supporting Documents. All work done to support the investigation, design, construction, operation, reclamation, closure, post-closure, and corrective action at a site shall be completed by qualified professionals, as follows:

1. Reports, plans, or other materials submitted in support of the application shall bear the signature and seal of the qualified professional who drafted or supervised the drafting of each document.

2. Engineering designs, reports, plans, and other technical engineering documents must be signed and certified by a State of Maine Registered Professional Engineer.

3. Geological work must be signed and certified by a State of Maine Certified Geologist.

4. Soils work must be signed and certified by a State of Maine Certified Soils Scientist.

5. Survey work must be signed and certified by a State of Maine Registered Land Surveyor.

E. Title, Right, and Interest. The Board will consider an application only when an applicant has demonstrated sufficient title, right, and interest in all of the property which is proposed for use. An applicant shall make such demonstration as follows:

1. When the applicant owns the property, a copy of the deed(s) to the property shall be supplied.

2. When the applicant has a lease or easement on the property, a copy of the lease or easement shall be supplied. The lease or easement shall be of sufficient duration and shall otherwise have sufficient terms, as determined by the Board, to permit construction, reasonable use, reclamation, closure, and post-closure maintenance at the site.

3. When the applicant has an option to buy or lease the property, a copy of the option agreement shall be supplied. The option shall be sufficient if it provides rights to the title or a leasehold as provided herein.

Section 10. Permit Duration and Renewal

A. The maximum permit duration shall be five years.

B. Renewal Criteria. A permit renewal shall be granted by the Board if the applicant demonstrates:

1. Compliance with the terms of the permit or, if not in compliance with the terms of the permit, compliance with a Board-approved corrective action plan, administrative consent agreement and enforcement order, or court order; and

2. Compliance with Sections 31 through 35 of this Ordinance, except that any new siting and design standards shall not be applicable to previously permitted mine waste units.

C. Renewal Application Requirements. The renewal application shall be signed by a responsible officer and include the following:

1. A narrative summary of occurrences of noncompliance and any accompanying corrective action taken during the previous permit period;

2. A narrative summary of any continuing noncompliance;

3. Information necessary to demonstrate compliance with Sections 31 through 35 of this Ordinance, as hereafter amended or superseded; and

4. Evidence that the required public notice for the renewal application has been given.

D. Applicability of New Siting and Design Standards. Notwithstanding Section 10(B)(2), new siting and design standards shall apply to unconstructed mine waste units and new design standards shall apply to substantial expansions of mine waste units if the Board determines such standards are technically feasible to apply and may be necessary to protect public health or the environment.

E. Delay of Expiration. When an applicant has submitted a complete application for renewal at least 180 days, but no earlier than 210 days, prior to the expiration date, the existing permit shall not expire until the renewal application has received final agency action. Only if a renewal application is timely and complete shall the applicant be entitled to continue operation under the previous permit until the Board renders a decision on the application for renewal. Twenty copies of the renewal application shall be provided unless otherwise specified by the Board.

F. The Board shall hold a public hearing and provide an opportunity for public comment on any application for permit renewal.

Section 11. Transfer of Permit

The permittee shall not sell, lease, assign, or otherwise transfer the site or any portion thereof, or cause or allow any other action where the purpose or consequence is to transfer any of the obligations of the permittee as incorporated in the permit, except following the approval of the Board. No transfer request will be considered by the Board without the submission of applicable fees as provided in Section 44 of this Ordinance. The Board shall either require that the proposed transferee apply for a new permit, or approve the transfer of the permit if the applicant has demonstrated the following:

A. The terms and conditions of the permit, and all applicable laws, can and will be met.

B. The proposed transferee has the financial capacity and technical ability and intent to satisfy the terms of the permit.

C. The transfer of the permit or the activities it allows will not cause or contribute to a violation of law. In determining whether transfer of the permit will cause or contribute to a violation of law, the Board shall consider any prior violation, suspension, or revocation of a permit issued to the proposed transferee or any person related to the proposed transferee and any other environmental enforcement history of the proposed transferee or related person. The Board may require the proposed transferee to present evidence of changed conditions or circumstances sufficient, in the judgment of the Board, to warrant transfer of the permit notwithstanding any prior violation, suspension, or revocation. The applicant shall provide the Board, as part of the transfer request, 20 copies of the information (unless otherwise specified by the Board) on the applicant as required in Section 23 of this Ordinance. Proposed changes to the terms of the permit, including financial responsibility requirements, shall be considered a request for permit modification and processed accordingly. The Board shall hold a public hearing and provide an opportunity for public comment on any transfer request.

Section 12. Variances

The Board intends, through this section, to allow for flexibility in meeting certain aspects of the siting, construction, design, and operational requirements of this Ordinance. This section applies only to variances from the following provisions of this Ordinance:

24(A)-(C), 26(D)(3)(a) and (b), 26(H)(2)(b), 26(H)(5)(c)(II), 33(A)(1) and (4), 33(B)(1)-(3), 33(C)(1)-(3), 33(C)(4)(d)-(f), 35(A)(3)(c)(I). No other provisions are subject to this section. The Board shall consider a variance request as part of its comprehensive review of a complete application.

A. Variance Criteria. The Board may grant a variance only when they find, by clear and convincing evidence, that the alternative proposed will provide at least an equivalent degree of protection as would otherwise applicable standards contained in this Ordinance. The applicant must affirmatively demonstrate the proposed alternative will provide at least this equivalent degree of protection. A variance may be issued subject to such terms and conditions as the Board deems necessary, and the permittee shall comply with such terms and conditions.

B. Information Required. A request for a variance, submitted to the Board, shall include, but is not limited to:

1. Identification of the specific provisions of this Ordinance from which a variance is sought;
2. Description of the alternative siting, design, construction, or operational procedure proposed; and
3. Information and explanation affirmatively demonstrating that the alternative proposed will provide at least an equivalent degree of protection as would otherwise applicable standards contained in this Ordinance.

C. Term and Renewal of Conditions. The term of the variance shall be concurrent with the term of the permit, or for such lesser term as the Board may specify in the permit.

D. No variance request shall be considered without payment of the fees for the processing of the variance request as provided in Section 44 of this Ordinance.

SUBCHAPTER 2. EXPLORATION AND ADVANCED EXPLORATION

Section 13. Purpose of Exploration and Advanced Exploration Requirements

The purpose of this subchapter is to establish procedures and standards for exploration and advanced exploration activities.

Section 14. Applicability of Exploration and Advanced Exploration Requirements

This Ordinance applies to any person proposing to conduct exploration or advanced exploration activities.

Section 15. Requirements for Exploration Activities

A. Procedural Requirements. Prior to the conducting of exploration activities, a person shall notify the Town of Union of such activities and pay the applicable fee as provided in Section 44 of this Ordinance. The notification shall describe the nature and location of the exploration activities to be conducted. Depending upon the location, type, and extent of activity, a permit may be required under other rules of the Town of Union or the State of Maine.

B. Standards. The following minimum standards must be met for exploration activities:

1. Access ways shall involve little or no recontouring of the land or ditching, and shall not include the addition of gravel or other surfacing materials. Clearing of the vegetative cover shall be limited to the minimum necessary to allow for the movement of equipment.

2. Access ways near stream channels shall be located and designed so as to minimize erosion and the discharge of sediment to the stream.

3. Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas. Soil stockpiles shall be seeded, mulched, and anchored or otherwise stabilized.

4. The affected land shall be restored to a physical state that is similar to and compatible with that which existed prior to any exploration. Within 30 working days following completion of exploration at a site, any person conducting exploration activities shall accomplish the following:

a. Disposal of all debris in accordance with applicable state laws and regulations;

b. Grading of the surface of the site so that the final graded slope conforms with the original contour of the land; and

c. Reseeding and stabilization of graded topsoil with vegetation native to the area. Any person conducting exploration activities shall follow the "Guidelines for Soil Stabilization," 04-061 CMR 10, Appendix B.

5. Within 30 working days after completion of exploration activities, all excavations including trenches, test pits, and mud pits shall be capped, refilled, or secured.

6. Sealing of all drill holes, whether temporary or permanent, shall be completed within 30 days of cessation of drilling or testing activities such as "down-the-hole" geophysical surveys or other similar activities. All artesian wells shall be capped or sealed within 48

hours after cessation of drilling or the onset of artesian conditions. No drill hole may be temporarily sealed for more than 3 years unless the drill hole is being used for sampling or other studies related to a mineral deposit or general hydrological conditions of the area. Sealing requirements are as follows.

a. A drill hole that is temporarily sealed shall prevent the passage of water into or out of bedrock. The method of temporary sealing shall include:

- I. Plugs at the top of the bedrock;
- II. Plugs at the surface opening of the drill hole;
or
- III. Such other methods as approved by the Board so as to reasonably prevent the passage of water into or out of the bedrock portion of the drill hole for a period of at least 3 years.

b. When any person conducting exploration activities determines that a drill hole need not remain open, or when a drill hole has remained temporarily sealed for more than 3 years and is not being used for sampling or other studies, the drill hole shall be sealed. Permanent sealing requirements include the following:

- I. The drill hole shall be permanently sealed by using concrete or neat cement to form a plug at least 10 feet in length down from the top of the bedrock surface. If the bedrock surface is so fractured or otherwise permeable that a 10-foot plug is not adequate to prevent water from entering or exiting the drill hole, then a plug of sufficient length shall be used to accomplish the desired seal.
- II. The surface opening of the drill hole shall be plugged with a non-metallic permanent plug of at least 3 feet in length. The plug may be made of wood, cement, rubber or other materials approved by the Board.
- III. As an alternative to Sections 15(B)(6)(b)(I) and (II), the drill hole may be filled with a bentonite slurry from the bottom of the hole level with the surface. Other methods may be used as approved by the Board.

- IV. If the owner of the land on which the drill hole is located desires to maintain the drill hole as a source of water, the owner shall notify the Board as part of the report required in Section 15(B)(6)(c).
- V. All materials, debris, and obstructions that may interfere with sealing operations shall be removed from the drill hole. Casing and other pipe shall be removed or perforated when necessary to ensure placement of an effective seal.

c. Within 30 working days after permanent sealing of a drill hole, any person conducting exploration activities shall submit to the Board a report including, but not limited to, the following information for each drill hole:

- I. Location and identification of the drill hole;
- II. Dimensions of the drill hole;
- III. Identification of depth, static elevation, and estimated flow of any groundwater encountered, if known; and
- IV. Methods of sealing the drill hole, demonstrating compliance with Section 15(B)(6)(a) and (b).

7. The Board and/or its representatives may enter any exploration site, take samples, and conduct tests in order to determine compliance with any provision of this Ordinance or other applicable requirements.

8. Any person conducting exploration activities shall notify the Code Enforcement Officer, the Selectmen, and the Board orally, immediately, and in writing within the next three working days of any activity or occurrence during the course of exploration or reclamation which has the potential to damage public health or the environment.

Section 16. Requirements for Advanced Exploration Activities

A. Standards. The standards for advanced exploration activities include the minimum exploration standards listed under Section 15 of this Ordinance, together with any additional site-specific standards and conditions required under the advanced exploration permit. These standards will be drawn from Sections 17-35 of this Ordinance.

B. Submission Requirements. Because of the varying nature and complexity of advanced exploration activities, the specific submission requirements will be determined by the Board on a case-by-case basis, upon review of the pre-application submissions set forth in Section 19.

SUBCHAPTER 3. PRE-APPLICATION

Section 17. Purpose of Pre-Application Requirements

This subchapter establishes procedures and requirements for the pre-application process associated with advanced exploration and mining activities.

Section 18. Applicability of Pre-Application Requirements

The provisions of this subchapter apply to all mining activities and may apply, at the discretion of the Board, to advanced exploration activities, depending upon the nature of the activity.

Section 19. Requirements for Pre-Application

A. Request by Applicant. Prior to preparing an application for a permit, the applicant shall request in writing a pre-application conference with the Board. All correspondence or pre-applications relating to mining activities within the Town of Union which are submitted to or transmitted by federal or state regulatory agencies must also be submitted concurrently to the Board.

B. Scheduling of Pre-Application Conference. The purpose of a pre-application conference is to help the applicant understand the pre-application and application processes, to identify particular areas of concern, and to exchange information. The Board shall schedule a pre-application conference with the applicant following receipt and review of the information required in Section 19(C).

C. Pre-Application Submissions. Prior to the pre-application conference, the applicant shall furnish the Board with 20 copies of the following information unless otherwise specified by the Board. Additional information may be required from the applicant during this phase:

1. The name, title, organization, address, and phone number of the applicant and the principal representative of the applicant;
2. Regional maps showing the location of the activity in relation to existing communities, transportation systems, and major physical features of the area;

3. Complete aerial coverage of the mine site area so to include obvious on and off-site identifying prominent landmarks as determined by the Board in both video and 35 mm color film format. The Board shall specify the dimensions of the area, but in all cases coverage shall extend at least one mile from the site perimeter in all directions.

4. Description of the metallic minerals of potential interest;

5. Evidence of the applicant's legal right to conduct the activity on the site, including a description of the ownership of the metallic minerals;

6. A description of the existing land use classification and/or zoning designation of the site;

7. A conceptual advanced exploration or mining plan; and

8. A proposed baseline monitoring plan meeting the requirements set forth in Section 19(D). The applicant may, upon prior written notice to the Board, elect to submit the proposed baseline monitoring plan as part of the draft scoping document required under Section 19(E)(2) of this Ordinance. In such case, the public notification requirements and public comment periods required under Sections 19(D)(4) and (5) and Sections 19(E)(3), (4), and (5) of this Ordinance shall be consolidated.

D. Baseline Monitoring Plan. A baseline monitoring plan defines existing site conditions prior to commencement of the proposed activity. The proposed baseline monitoring plan shall include, at the discretion of the Board, but is not limited to, characterizations of the following resources: protected natural resources, wildlife, fisheries, aquatic life, vegetation, surface water and groundwater quality and quantity, air quality, and socioeconomics.

1. Contents. Baseline studies shall provide sufficient data to allow qualitative and quantitative analysis of the study areas. The study areas should include all areas within the site and affected areas. The proposed baseline monitoring plan may include, as required by the Board, studies on each of the following:

a. Climate, including precipitation zone, both annual and monthly;

b. Air quality;

c. Surface water, including:

I. Seasonal water quality and quantity;

II. Storm-event water quality and quantity;

III. Storm survey calculations for 24-hour duration storms at 10-year, 25-year and 100-year, and 200-year return intervals;

IV. Maps of affected watersheds and wetlands;

V. Flow estimates of affected watersheds; and

VI. Sediment quality;

d. Groundwater, including:

I. Groundwater quality and quantity;

II. Hydrologic inventory of wells, springs, and seeps in area of impact;

III. Aquifer characteristics (values of transmissivity, storage coefficient, aquifer saturated thickness);

IV. Potentiometric surface map; and

V. Delineation and characterization of hydrostratigraphic units;

e. Geology, including:

I. Geologic map indicating known stratigraphy, structure, and fault system with appropriate cross-sections;

II. Narrative of geologic history;

III. Discussion of the metallic mineral deposit including mineralogic and chemical nature of the ore and waste rock;

IV. Geologic stability of the affected area including regional seismicity, known landslides, and fault systems; and

V. Unique geologic features;

f. Soils and other surficial deposits including type, extent, thickness, and physical and chemical properties;

g. Vegetation, including:

I. Plant community types;

- II. Percent of cover by morphological class;
- III. Existence of endangered or threatened species;
and
- IV. Map indicating range, distribution, and
community type;
- h. Wildlife and fisheries, including:
 - I. Biological monitoring (fish-tissue analysis,
fish surveys and appropriate invertebrate
studies);
 - II. Significant wildlife habitats and unusual
natural areas including mapped or unmapped deer
wintering areas;
 - III. Existence of endangered or threatened species;
and
 - IV. Wildlife uses;
- i. Socioeconomic characteristics, including:
 - I. Population and demographics;
 - II. Local economy;
 - III. Public facilities and services;
 - IV. Transportation; and
 - V. Housing and property valuation;
- j. Adjacent land uses and land cover; and
- k. Cultural, historic, and scenic resources.

2. Data Acquisition

a. The baseline monitoring plan shall describe methods for acquiring data at the site of the proposed activity. The proposed data acquisition methods shall include, but are not limited to, the following:

- I. Scope of analysis or investigation;
- II. Sampling methods;

III. Detection limits and analytical methods, where appropriate.

b. The baseline monitoring plan shall include a timetable for collection of data.

c. The baseline monitoring plan shall include a quality assurance (QA) project plan. The purpose of the QA project plan is to ensure that data acquisition is performed using approved methods and meeting approved minimum technical and professional standards. The QA documentation for the baseline data shall include the following for water and air:

- I. Analytical results;
- II. Detection limits for each analyte;
- III. Method reference;
- IV. Dates that samples were collected, received, prepared, and analyzed;
- V. Chain-of-custody records;
- VI. Results of laboratory control samples (method blanks/initial calibration reference standards);
- VII. Results of matrix-specific spikes, matrix-spiked duplicates, or reference standards (if applicable); and
- VIII. Commentary on any anomalies encountered during sampling and analysis.

NOTE: For an example of a quality assurance project plan, refer to QAMS-005/80, "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," U.S. Environmental Protection Agency, 1980.

3. Technical Standards for Baseline Monitoring Plan

a. Testing is required for (1) metallic elements for which maximum contaminant levels (MCLs) have been established by the U.S. Environmental Protection Agency (EPA) under the Safe Drinking Water Act, or for which applicable New Source Performance Standards for Ore Mining and Dressing Point Source Categories have been established pursuant to 40 CFR 440; and (2) for any toxics for which criteria have been developed by EPA under Section 304(a) of the Clean Water Act or by the DEP under 38 M.R.S.A. 420, and other indicators that could adversely impact water quality. In addition, the Board may require testing which includes, but is not limited to, the following:

acidity
alkalinity
aluminum
ammonia
antimony
arsenic
barium
beryllium
biochemical oxygen demand

boron
bicarbonates
cadmium
calcium
carbonates
cation-anion balance
chemical oxygen demand
chloride
chromium
cobalt
conductivity
copper
cyanide
dissolved oxygen
fluoride
hardness
iron
lead

magnesium
manganese
mercury
molybdenum
nickel
nitrates-nitrite
pH
phenols
potassium
radium 226 and 228
selenium
silver
silica
sodium
sulfate
sulfide
temperature
thallium
total dissolved solids
total Kjeldahl nitrogen
total organic carbon
total petroleum hydrocarbons
total phosphorus
total suspended solids
vanadium
volatile organic compounds
zinc

b. Minimum baseline data acquisition of ambient air quality data shall be that required under 06-096 CMR 115(VII)(D)(1).

c. Sampling points and monitoring wells shall be adequate in number and located in such a manner as to adequately characterize existing conditions.

d. Data shall be collected over 12 consecutive months for surface and groundwater quality unless pre-existing data are approved for use by the Board.

e. Sampling frequencies shall be determined by the Board.

f. Analyses shall be performed using EPA-approved methods by qualified independent laboratories unless otherwise agreed to by the Board.

NOTE: For a listing of EPA-Approved Test Methods, refer to 40 CFR 136.

g. The required level of detection shall be determined by the Board.

h. The use of pre-existing data shall be subject to approval by the Board under the criteria set forth in Section 19(D)(3)(I).

I. All pre-existing data shall be clearly marked "pre-existing data" within the baseline monitoring plan. The applicant shall discuss the manner and time in which the data was acquired, the analytical or investigative methods used, and any other factors relevant to the quality and applicability of the data. Such factors, at the discretion of the Board, may include, but are not limited to, the following:

AA. Age of the data;

BB. Analytical methods used;

CC. Detection limit;

DD. Quality assurance/quality control documentation;

EE. Field method employed;

FF. Representativeness of the data; and

GG. Previous Board approvals of work plans submitted by the applicant.

II. The Board shall accept or reject the use of pre-existing data prior to the acceptance of the baseline monitoring plan.

4. Publication and Notice of Baseline Monitoring Plans. Upon initial submittal of the proposed baseline monitoring plan, the applicant shall provide public notice of the availability of the plan for public review and comment by publishing notice in the newspaper having the largest circulation in the county and in one newspaper with a circulation area of the entire State of Maine. A certificate of publication will be made a part of the record.

5. Public Comment Period. Following notice of publication of the baseline monitoring plan, there shall be 30 days for public review and comment and the Board shall hold a public hearing within the comment period. The Board may extend the public comment period upon reasonable request.

6. Review and Acceptance of Baseline Monitoring Plan

a. Within 90 days of the close of the comment period, the Board shall either accept the baseline monitoring plan, accept with conditions, or require amendments to the plan prior to acceptance.

b. After the baseline monitoring plan has been accepted by the Board, it shall be amended if:

- I. Changes in the siting of the proposed activity necessitate an expansion of the study area;
- II. Changes in the scope of the proposed activity necessitate additional studies; or
- III. Any other information is necessary for the Board to evaluate the proposed activity under all applicable permit review criteria.

E. Environmental Review. The environmental review process and the preparation of an Environmental Impact Report (EIR) shall be mandatory for all mining activities and may be required by the Board for advanced exploration activities, depending on the nature and extent of the proposed activity. The main objectives of the environmental review process and the preparation of an EIR are to: (1) encourage early public input into the process; (2) provide a useful informational assessment as part of the application that will inform the Board and the public of any potentially significant adverse impacts associated with a proposed activity; (3) identify methods to minimize any significant adverse impacts to the environment; and (4) identify and evaluate alternatives to the proposed activity or components thereof.

1. A scoping process shall be used before preparation of an EIR to identify environmental issues relevant to the proposed activity; determine the appropriate level of analysis and contents of the EIR; identify the factors to be assessed in the EIR; and set a timetable for preparation. At a minimum, the scope of an EIR shall encompass environmental, physical, cultural, land use, and socioeconomic impacts of a proposed activity; measures for mitigating significant impacts; and discussions of project site and processing alternatives.

2. Prior to the preparation of the EIR, a draft scoping document shall be submitted to the Board by the applicant and must be accepted by the Board, with or without conditions. Twenty copies shall be submitted unless specified otherwise by the Board. The draft scoping document shall include, but is not limited to, the following:

a. Description of the proposed activity including the applicant and the name and location of the activity;

- b. Procedural details;
- c. Identification of potential environmental impacts and issues that require investigation;
- d. Detailed work plan for the analysis of each major issue area including proposed evaluations;
- e. Copy of the baseline monitoring plan; if previously accepted.
- f. Identification of the baseline data that will be incorporated into the EIR and how it will be incorporated; and
- g. Preliminary outline of the EIR.

3. Public Notice and Availability of Draft Scoping Document

a. Upon submittal of the draft scoping document, the applicant shall provide public notice of the availability of the draft scoping document for public review and comment by publishing notice in the newspaper having the largest circulation in the county and in one newspaper with a circulation area of the entire State of Maine. A certificate of publication will be made a part of the record.

4. Public Comment Period. Following notice of publication of the draft scoping document, there shall be 45 days for public comment. The Board may extend the comment period upon reasonable request.

5. Public Scoping Meeting. During the comment period, the Board may hold a public scoping meeting to gather further comments on the draft scoping document.

6. Acceptance of Scoping Document

a. Within 90 days of the end of the public comment period, the Board shall either accept the draft scoping plan, accept the draft scoping plan with conditions, or require the applicant to amend the draft scoping document prior to acceptance.

b. After the scoping document has been accepted by the Board, with or without conditions, the scope of the EIR may be amended if:

- I. Changes are made in the plans for the proposed activity that may affect the potential for unreasonable adverse effects to the public health or environment;
- II. New information arises that is material to the proposed activity or proposed site that may affect the potential for unreasonable adverse effects to the public health or environment; or

III. Any other information is necessary for the Board to evaluate the proposed activity under all applicable permit review criteria.

7. Preparation of Environmental Impact Report. The completed EIR shall be submitted as a component of the mining permit application or, if applicable, the advanced exploration permit application in accordance with Section 23(C) of this Ordinance.

SUBCHAPTER 4. MINING

Section 20. Purpose of Requirements for Mining

This subchapter establishes the general procedures and requirements for the application and implementation of a permit.

Section 21. Applicability of Requirements for Mining

The provisions of this subchapter apply to all mining activities, and may apply to advanced exploration activities depending upon the nature and extent of the activity.

Section 22. Application Processing Procedure

An application for a permit shall be processed in accordance with this Ordinance.

A. Public Notice of Filing an Application. An applicant shall give public notice of the filing of an application by:

1. Publishing notice, in size and form at least equivalent to standard legal notices and containing the information specified below, in the newspaper having the largest circulation in the county and in one newspaper with a circulation of the entire State of Maine. A certificate of publication will be made a part of the record. Notice must be published once during the week in which the application is filed and once during the following week. Such notice shall include the following:

- a. A summary of the proposed activity;
- b. The date of filing of the application and locations at which and the times when the application may be examined;
- c. A statement that public comments are invited, that a public hearing will be held by the Board at a date and location to be announced, and that public comments will be accepted until the close of the public record or another date established by the Board.

B. Requests for Additional Information. In reviewing applications accepted for processing, the Board may require additional information from the applicant on any aspect of the application relating to compliance with the requirements of this Ordinance or Town of Union Ordinances.

C. Draft Decision. The Board may prepare a draft decision on the application and after consideration of the public comments and the application itself, and may provide an opportunity for the public to comment on the draft decision for a period of up to 30 days. The Board may incorporate comments received on the draft decision into the final decision.

D. Jurisdiction. The final decision on an application for a permit under this Ordinance shall be rendered by the Board.

Section 23. Contents of Application

The applicant shall provide all submissions requested by the Board which the Board determines are necessary to evaluate the criteria for permit issuance under this Ordinance and other Town of Union Ordinances, including, but not limited to, materials the applicant has filed with other governmental agencies. The Board may waive application requirements it determines are inappropriate, unnecessary, or irrelevant to a specific proposal. The following information must be provided, but is not intended to include all submissions that may be required under applicable law:

A. General Information

1. Applicant Information. Information about the applicant and the proposed activity must be provided including, but not limited to, the following:

a. The name, mailing address, and phone number of the applicant and principal representative of the applicant;

b. The general organizational structure of the applicant, any parent companies, owners, principal stockholders, partners, and joint venturers;

c. Any managing agents or subsidiaries which are or may be involved in the proposed activity;

d. Organizational and legal relationships between or among joint applicants;

e. The applicant's registered agent for service of process in the state; and

f. Evidence of the applicant's ability to undertake the proposed activity, including:

- I. A statement of the applicant's prior experience and/or training as it relates to the proposed activity;
- II. The names and qualifications of all key personnel who will be involved with site preparation, extraction, beneficiation, reclamation, closure, and post-closure maintenance; and
- III. A summary of the applicant's and its responsible officers' and related corporation's record of compliance with environmental and land use laws and financial requirements of Maine and other jurisdictions, as follows:
 - AA. A list and explanation of any felony convictions, any criminal convictions of environmental and land use laws, and any civil violations of environmental or land use laws administered by the State of Maine, other states, the United States, or another country at any time.
 - BB. A list and explanation of administrative consent agreements or consent decrees entered into by the applicant or related persons including alleged violations of environmental or land use laws administered by the State of Maine, other states, the United States or another country, in the 10 years immediately preceding the filing of the application.

2. Location. The location of the proposed activity must be provided including, but not limited to, the following:

- a. The location of the proposed site;
- b. A legal description of the proposed site; and
- c. The names and addresses of owners of abutting property.

3. Evidence of Legal Authority. Evidence of legal authority to conduct business in the State of Maine must be provided.

4. Other Permits. A list must be provided of all other federal, state, and local permits, licenses, and approvals required for the proposed activity, including the status of such permits, licenses, and approvals.

5. Mining Experience. A list must be provided of all mines controlled or operated by the applicant, or related persons, in the world. This list shall include mine site addresses, nature and duration of affiliation with the site, and a brief description of each mine.

B. Baseline Monitoring Studies. Baseline monitoring studies prepared pursuant to the requirements of Section 19(E) of this Ordinance.

C. Environmental Impact Report. An environmental impact report prepared pursuant to the following requirements.

1. Contents of Environmental Impact Report. The following shall be included:

a. A cover sheet including:

I. Name of the proposed activity; and

II. Name, address, and telephone number of the applicant or the applicant's representative.

b. Summary of the EIR stressing the major findings, areas of controversy, and the issues to be resolved, including alternatives;

c. Table of contents;

d. List of preparers and their experience and qualifications;

e. Description of all proposed activities;

f. List of all required local, state, and federal permits, licenses, and approvals, including an identification of the governmental unit responsible for each permit or approval;

g. An assessment of all potential environmental and socioeconomic impacts associated with a proposed mining or advanced exploration activity. The actual factors to be assessed will be based upon a project specific scoping process in accordance with Section 19(E) of this Ordinance, which will take into consideration the site-specific characteristics associated with the proposed activity. These factors may include, but are not limited to, impacts on the following:

- I. Climate and air quality;
- II. Great ponds, rivers, streams, and brooks;
- III. Groundwater quality and existing groundwater uses;
- IV. Bedrock geology;
- V. Surficial geology and soils;
- VI. Land forms;
- VII. Hydrology;
- VIII. Ambient noise levels;
- IX. Vegetation;
- X. Existing and future land uses;
- XI. Wildlife and fisheries;
- XII. Unusual natural areas as defined in 06-096 CMR 375(12);
- XIII. Significant wildlife habitat;
- XIV. Historic and archaeologic resources;
- XV. Scenic resources;
- XVI. Freshwater and coastal wetlands;
- XVII. Fragile mountain areas;
- XVIII. Public health and safety;
- XIX. Schools;
- XX. Roads and traffic circulation;
- XXI. Housing;
- XXII. Employment;
- XXIII. Fire protection;
- XXIX. Law enforcement;
- XXV. Tax base and property valuation;

XXVI. Social services;

XXVII. Public lands, parks and other public access areas;

XXVIII. Local economics; and

XXIX. Recreational resources;

h. Identification of mitigation measures which may reasonably eliminate or minimize adverse environmental and socioeconomic impacts associated with the proposed activity; and

i. An assessment of alternatives comparing the impacts of the proposed activity with other alternatives, that are reasonably available, which have been or should be considered by the applicant in order to carry out the proposed activity in the most environmentally sound manner including alternatives that would prevent substantial impairment of existing groundwater uses within the Town of Union. This assessment may include, but is not limited to, design alternatives for ore leaching units and mine waste units; waste minimization alternatives including alternative extraction and beneficiation techniques, and opportunities for reuse, in-mine disposal, sale, recovery, treatment or processing of mine wastes; waste treatment and handling alternatives, including alternatives to the proposed method for management and disposal of wastewaters; reclamation alternatives, including phased reclamation; and alternatives on land within the control of the applicant for siting ore processing and mine waste units.

2. Review and Acceptance of EIR. Upon review by the Board, if the EIR is not considered to be adequate in accordance with this Ordinance and the accepted scoping document, the application will not be considered complete for processing by the Board.

NOTE: In order to facilitate review of the proposed activity and ensure the accuracy of the EIR, the applicant is encouraged to submit a preliminary EIR to the Board for review and comment prior to submittal of the application.

D. Operating Plan. An operating plan detailing the location and siting of the proposed activity, including mine waste units. At a minimum, the operating plan shall include, but is not limited to, the following:

1. Maps. The following maps shall be included (map scale shall be 1 inch=100 feet or as otherwise approved by the Board):

a. A location map of sufficient size to adequately depict the area;

b. Vicinity maps, including 7½-inch USGS topographic maps where available or other maps at 1:24,000 (1 inch to 2000 feet), identifying railroads, public and private roads, electrical transmission and telephone lines, pipelines, buried cables, pre-existing mining disturbances, and any other surficial land features as required by the Board; and

c. Site maps and overlays for areas of expected disturbance, and areas within 3,000 feet of the site perimeter showing:

- I. The cadastral base (land grid, no culture);
- II. Topography, at a maximum of 5-foot vertical contour intervals;
- III. The natural environment, including:
 - AA. Surficial and bedrock geology;
 - BB. Hydrology of both surface and groundwater, including wells, springs, ponds, and other sources of water used by others, surface drainage, and watersheds on the site;
 - CC. The shape and extent of the metallic mineral deposit to be extracted, with cross-sections;
 - DD. The type, extent, and thickness of soils, as indicated by a soil survey that includes a soil map of the site;
 - EE. Any sensitive natural areas within a 10-mile radius of the mine site including protected natural resources under 38 M.R.S.A. 480-B(8), unusual natural areas under 06-096 CMR 375.12 and state and federal lands; and
 - FF. A description of the general cover characteristics of the site in percentage of total area, comparing the existing situation with that anticipated upon completion of the project, including areas which are wooded, cleared, scrub, exposed bedrock, wetland, and surface water bodies. Complete aerial coverage of the mine site area so to include obvious on and off-site identifying prominent landmarks as determined by the Board in both video and 35 mm color film format.

Sec 23

The Board shall specify the dimensions of the area, but in all cases coverage shall extend at least one mile from the site perimeter in all directions.

- IV. Historical and archaeological sites;
- V. Surface and mineral ownership;
- VI. Adjoining property owners;
- VII. Soil stripping and storage (one overlay per year for the first 5 years, then one overlay for each 5th year to identify volumes of soil stripped by area and volumes stored by area);
- VIII. Proposed surface and underground excavations and haul roads (one overlay per year for the first 5 years, then one overlay for each 5th year and one overlay of the final configuration);
- IX. Proposed surface water diversion, drainage, and sedimentation facilities;
- X. Proposed impoundments, ditches, and pipelines;
- XI. Proposed structures, parking areas, crushing and conveying facilities, stockpiles identified by function, waste facilities, permanent roadways, service areas, substations, pump stations, ventilation stations, aboveground and underground storage tanks, and site monitoring locations; and
- XII. Areas where blasting is proposed within 2000 feet of an existing structure.

2. Extraction and Beneficiation Processes. A narrative description of all proposed extraction and beneficiation processes shall be included, including the following:

- a. Soil stripping and storage;
- b. Drilling and blasting;
- c. Management practices for loading, hauling, dumping, and stockpiling of overburden, waste rock, and ore;
- d. Crushing, and conveying;

e. Extraction and beneficiation, including on-site refining, if any, and including a process flow sheet;

f. Water balance and water requirements;

g. Chemicals, reagents, and explosives to be used, transported, and stored, including the range of chemical concentrations used in operating;

h. Disposition of concentrates and mine waste;

i. Estimated rate and duration of extraction and beneficiation;

j. Times of operation, including seasons, days, and hours;

k. Equipment to be used, including types and numbers;

l. Off-site transport to and from the site of chemicals, reagents, and explosives, including types, volumes, and frequency;

m. A plan demonstrating compliance with the siting, design, construction, monitoring, and operational standards of this Ordinance when ore leaching is proposed. The plan shall include an assessment of all engineered systems against failure in accordance with the Engineered Systems Assessment described in Section 33(D)(5) of this Ordinance. The plan shall also include the management of contaminated stormwater and processing waters from heap or dump leaching facilities; and

n. A chronological summary of the proposed activity including all stages of development, reclamation and closure.

3. Mine Waste Treatment and Management Plan. A mine waste treatment and management plan shall be included. As described in Sections 31 through 35 of this Ordinance, the plan shall include, but is not limited to, the following:

a. Characterization and analysis of mine waste;

b. Hydrogeologic assessment;

c. Engineering design;

d. Engineering report;

e. Quality assurance/quality control program;

f. Operations manual;

g. Monitoring plan;

h. Closure plan; and

i. Post-closure maintenance plan.

4. Reclamation Plan. A reclamation plan shall be included, as follows:

a. The reclamation plan shall provide for restoration of the site to the original land use and land form or an alternative land use and land form acceptable to the Board. An alternative proposal shall require restoration of the affected land to encourage productive uses and be harmonious with the surrounding environment. If an alternative land use is proposed, the applicant shall provide the following information:

I. A description of the original land use(s);

II. A description of the alternative land use(s) proposed by the applicant; and

III. A discussion of the costs and benefits of the proposed alternative use(s) compared to the costs and benefits of the original use(s).

b. The reclamation plan shall include the following information:

I. Final surface and subsurface configuration of the site; a pre- and post-mining contour map that includes the topography of land in the vicinity of the site;

II. The method, extent, and timing of construction operations necessary to complete reclamation;

III. Topsoil and subsoil replacement, including location, method, schedule, and depth of replacement; source of material; and erosion and sedimentation control plans;

IV. Revegetation, including the method, location, and timing of cover; species to be seeded or planted in specific locations; seeding and planting rate; justification for species selection; mulching plans; timing and nature of the evaluation of success of revegetation practices, including response plan to instances of revegetation failure including maintenance provisions;

V. The final surface drainage system layout for the reclaimed site; and

VI. Reclamation costs, including itemized costs of continuous, temporary, and permanent reclamation of the site.

5. Blasting and Vibration Plan. A pre-blasting survey shall be completed for all off-site structures within 2000 feet of any blasting. The survey report must determine the condition of the structure and must document any pre-existing defects and other physical factors that could reasonably be affected by the blasting. This survey shall be carried out by an independent consultant specializing in the field of blasting vibrations and their effect on structures. The applicant shall also submit a plan which addresses airblast limits, ground vibrations, and maximum peak particle velocity. The plan must address measures taken to limit the impact from blasting.

6. Surface Subsidence Plan. Where there is potential for subsidence, the applicant shall submit a surface subsidence plan including the following:

- a. Reasons why such subsidence is necessary or desirable;
- b. Evidence that the anticipated subsidence methods represent no threat to public health, safety, or the environment;
- c. Steps that will be taken to establish ground-control survey locations and to conduct surveys documenting the extent of ground movement; and
- d. Procedures that will be undertaken to reclaim areas affected by subsidence including, but not limited to, contouring, filling, or flooding so as to protect public health and safety and the environment.

7. Oil and Hazardous Material Management Plan. Where site operation includes the transportation or handling of oil or hazardous materials or wastes (non-mine waste), the applicant must submit a plan for the siting, design, and operation of the site to protect the environment and must, where required, meet all permitting and other applicable requirements of 06-096 CMR 850-857, and other applicable law.

8. Site Monitoring Plan. The site monitoring plan shall describe all the environmental monitoring to be conducted at the site. This plan shall be designed to detect and monitor the effects of the site, mine waste units, and ore leaching facilities on the surrounding environment including, but not limited to, groundwater, surface water, air, and soils and surficial materials. This plan shall contain, at a minimum, a sampling and analytical plan, location of monitoring sites, and a description of the construction, installation, and maintenance of monitoring sites.

9. Inspection Plan. The inspection plan must describe the measures to be taken at the site to ensure that all structures and other design features necessary for proper operation of the site are maintained.

10. Site Security Plan. The applicant shall provide a plan for security provisions to prevent unauthorized access to the mine site.

11. Financial Responsibility Plan. Financial responsibility shall be required of a person engaged in any proposed activity. A financial responsibility plan for the proposed activity shall detail the form and amount of financial assurance and insurance proposed to meet the requirements of Section 26(H) of this Ordinance and 06-096 CMR 373(1).

12. Contingency and Emergency Procedures Plan. Each site must have a contingency and emergency procedures plan designed to minimize hazards to public health and the environment from fires, explosions, or any unplanned sudden or non-sudden release of waste or materials that may pose a threat to air, soil, groundwater, or surface water.

13. Air Quality Control. The air quality control plan shall demonstrate compliance with all applicable state ambient air quality and emission standards. Where fugitive emissions are anticipated, the applicant must submit a best management practices plan for the control of fugitive emissions. The best management practices plan shall indicate the methods the applicant intends to use to minimize fugitive emissions resulting from a proposed activity, roads, and stockpiles at the site such that emission and air quality standards are not exceeded.

14. Erosion and Sedimentation Control Plan

a. The applicant shall provide a plan describing measures to be used to prevent erosion and sedimentation.

b. At a minimum, an erosion and sedimentation control plan shall include the following:

- I. A narrative describing permanent and temporary erosion and sedimentation control measures to be used;
- II. Plan view of the site showing location of proposed measures;
- III. Design and construction specifications for measures to be used, including calculations supporting sizing and design of any structures;
- IV. Cross-sections of control measures, showing installation details;

- V. Implementation schedule for permanent and temporary control measures; and
- VI. Inspection and maintenance schedule for proposed control measures and designation of the responsible party.

15. Storm and Surface Water Management Plan. The applicant shall submit a storm and surface water management plan developed to comply with this Ordinance.

16. Protected Natural Resource Plan. The applicant shall submit a protected natural resource plan that describes the measures to be taken to comply with applicable federal and state law.

Section 24. Siting Standards

A proposed site shall be located and designed to comply with applicable siting standards under Section 33(A) of this Ordinance and other Town of Union Ordinances, and shall be located and designed in a manner consistent with the Town of Union Comprehensive Plan.

A. Siting Within Floodplains. In order to locate any portion of a site in a 200-year floodplain, the applicant must demonstrate to the satisfaction of the Board that such portion of the site will be designed, operated, reclaimed, or closed so that the requirements of this Ordinance are met. This demonstration must consider the degree to which the portion of the site in the floodplain will restrict the flow of the 200-year flood and reduce the temporary water storage or conveyance capacity of the floodplain, and whether it will result in erosion and sedimentation or water pollution.

B. Siting Over Unstable Areas. The mine waste units and ore leaching facilities shall not be located over an unstable area.

C. Setbacks. The following minimum setbacks shall be maintained unless the Board determines alternative setbacks are appropriate pursuant to paragraphs (4) and (5) of this subsection.

1. Mine waste units shall be set back a minimum of 5,280 feet from a property boundary or a public or existing private drinking water system for Group A waste, 2,640 feet for Group B waste, and 1,000 feet for Group C waste. Outdoor ore leaching facilities shall be set back a minimum of 5,280 feet from a property boundary or a public or existing private drinking water system.

2. The limit of excavation shall be set back a minimum of 1,500 feet from a public or existing private water system and 1,000 feet from a property boundary.

a. The ore storage units shall be subject to the same setback requirements as Group A wastes.

3. All activities other than mine waste units, and outdoor ore leaching or ore storage facilities and the limit of excavation, shall be set back a minimum of 300 feet from a property boundary, a public or existing private drinking water system, or a public road. The 300-foot property boundary setback may be reduced to 100 feet with written permission of all property owners within the 300-foot setback and approval of the Board.

4. Greater setbacks may be required by the Board depending upon site specific factors such as:

a. Noise and structural impacts from blasting and other activities at the site;

b. Potential impacts on groundwater quality and existing groundwater uses;

c. Potential impacts on surface water quality and other natural resources of the Town;

d. Response time that may be required to initiate and complete correction action;

e. Potential impacts to air quality resulting from blasting and other activities at the site;

f. Compatibility with the existing natural environment and surrounding land uses; and

g. Other site specific conditions.

5. Pursuant to Section 12 of the Ordinance, the applicant may request a variance from the minimum setbacks of paragraphs (1) through (3) of this subsection. In reaching a decision on the variance request, the Board shall consider the factors specified in paragraph 4 of this subsection.

Section 25. Design Standards

Ore leaching facilities and units for the management of Group A and Group B mining waste, and other ore piles and surface impoundments, if any, shall be designed, constructed, and operated to ensure the greatest degree of groundwater pollutant discharge reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives including, where practicable, a technology permitting no discharge of pollutants. In determining the best available control technology, processes, operating methods, or other alternatives, the Board shall

take into account site-specific hydrologic and geologic characteristics and other environmental factors; the use of alternate technologies, processes, or operating methods in the industry; and the economic impacts of the use of alternative technologies, processes, or operating methods. A discharge reduction solely by means of site-specific characteristics does not in itself constitute a best available demonstrated control technology. In addition, the following and Section 33(B) of this Ordinance are supplemental minimum design standards:

A. Ore Leaching Facilities

1. Ore leaching facilities, including associated solution ponds and all ditches connecting these facilities, shall be constructed and operated in accordance with the siting, design, monitoring, and operating standards of Sections 32, 33, and 34 of this Ordinance. In addition, the following requirements must be met:

a. The facility shall be designed to minimize overspray and wind dispersion of leaching solutions.

b. The design shall include a system for detection of leaks through the composite liner and leak recovery. Levels of an indicator parameter(s) signifying excessive leakage shall be designated in the permit.

2. Ore leaching facilities, including associated solution ponds and all ditches used to connect these facilities, shall be designed and constructed so their volumes shall accommodate all precipitation and runoff resulting from a 24-hour, 200-year storm.

3. Closure shall be in compliance with the requirements of Section 35 of this Ordinance, as applicable.

NOTE: The variances available under Section 12 of this Ordinance from the requirements of Sections 33-35 of this Ordinance are also available to ore leaching facilities.

B. Wildlife Exclusion

1. Fencing. All open waters which contain any chemical(s) at levels harmful to wildlife shall be fenced to exclude terrestrial animals. The fence bottom shall be secured tight to the ground to prevent animals from gaining access under the fence. These fences shall be inspected and maintained to prevent wildlife access.

2. Covering or Containment. All waters that contain any chemical(s) at levels harmful to wildlife must be covered or contained in a manner that shall prevent access by wildlife. All covers or containers shall be maintained in a manner that shall continue to prevent access by wildlife for as long as the pond or container could be harmful to wildlife.

3. Chemical Neutralization or Isolation. Any chemical-laden fluids that are the result of any process and that are impounded in an area that is too large to cover or contain must be rendered non-harmful to wildlife prior to outside storage.

C. Stormwater. The site will be designed to minimize runoff of surface water into the site, and stormwater runoff will be managed to ensure the compliance with applicable state law and performance requirements of this Ordinance will be achieved.

Section 26. Operational Standards

A site shall be operated to comply with this Ordinance and other Town of Union Ordinances. In addition, the following are supplemental minimum operational standards.

A. Site Monitoring. The site must be monitored to demonstrate compliance with the performance requirements of this Ordinance and the site monitoring plan required under Section 23(D)(7).

B. Temporary Cessation of Mining

1. Cessation of operation of the site, or any portion thereof, for more than 30 days, as the result of a planned or unplanned activity, shall constitute temporary cessation of mining. The Board may, at its discretion, require the permittee to submit, within 30 days of the temporary cessation of mining, a plan demonstrating how compliance with permit conditions and the requirements of this Ordinance will be achieved.

2. The permittee shall take all steps reasonably necessary to protect public health and the environment during temporary cessation of mining and shall report to the Board the steps taken.

C. Reclamation

1. All reclaimed slopes and slope combinations must be structurally stable and harmonious with the surrounding environment. All grading, backfilling, and topographic reconstruction of affected lands must achieve stabilization and minimize the need for long-term maintenance. Techniques shall be utilized to prevent sliding, slumping, and heaving.

2. Temporary erosion control measures such as mulching and anchoring shall be implemented immediately to minimize erosion of disturbed areas prior to seeding and planting.

3. Seeding and planting must be done in accordance with accepted agricultural practices. Disturbed areas shall be seeded immediately after final soil preparation, unless an alternative plan is approved by the Board.

4. Vegetative material used in reclamation shall consist of grasses, legumes, herbaceous or woody plants, shrubs, trees, or a mixture thereof which is consistent with the design function and the site and soil characteristics such as drainage, pH, nutrient availability, and climate.

5. The vegetative cover shall be considered acceptable if:

a. The planting of trees and shrubs results in a permanent stand or in a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and

b. The planting of all materials results in 90% ground coverage for those areas disturbed within 18 months of seeding and planting.

6. All structures and access, haul, and other support roads constructed under the permit shall be removed, unless such structures and roads are required for post-closure care activities or as part of an approved alternative use at the site.

7. Site reclamation activities shall be planned to accomplish reclamation progressively throughout the operational period of the activity to the extent that the phased reclamation is technically feasible.

8. Soil which is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the permittee demonstrates to the satisfaction of the Board that the soil is not needed for reclamation purposes. Soil stockpiles shall be seeded, mulched, and anchored or otherwise stabilized.

D. Ore Leaching Facilities

1. To ensure compliance with design and operating requirements of the approved permit, the construction, operation, and maintenance of ore leaching facilities shall be:

a. Inspected each day during operations; and

b. Inspected by a qualified professional at least twice yearly, and the permittee shall report the results along with the inspector's recommendations to the Board.

2. Upon completion of metal extraction, the leachate from the ore leaching facilities shall be treated pursuant to Sections 32 and 33 of this Ordinance.

3. Spent ore which has been left in place or which will be removed must first be rinsed until:

a. WAD cyanide levels in the effluent rinse water are less than 0.2 mg/l;

b. The pH level of the effluent rinse water is between 6.0 and 9.0; and

c. Contaminants in any effluent from the processed ore resulting from precipitation would not degrade waters of the state.

4. Leached ore, upon completion of metal extraction and after rinsing, whether left on the base foundation or stockpiled elsewhere, shall be disposed of pursuant to Sections 31 through 35 of this Ordinance.

E. Blasting and Noise Requirements. All activities shall be conducted in accordance with the applicable standards of 06-096 CMR 375, and other applicable law.

NOTE: See the Blasting Guidance Manual of the Office of Surface Mining Reclamation and Enforcement (OSMRE), U.S. Department of the Interior (March 1987).

F. Annual Report. The permittee shall submit to the Board, in the number of copies specified by the Board, annual reports due 1 year and 2 months from the date of issuance of the permit, and then yearly thereafter. Each report to include supporting video documentation shall describe the activities completed during the past year and planned for the upcoming year. The reports shall be in a format approved by the Board and shall contain, at a minimum, the following information:

1. For the preceding 12 months:

a. The actual rate of extraction;

b. The actual area disturbed, the amount and composition of material extracted, and a survey indicating limits of all disturbed areas, both surficial and underground;

c. A discussion of rock types or formations to be encountered during extraction that were not characterized in the original mine operating plan;

d. The actual area reclaimed;

e. The success of revegetation efforts;

f. The status of the reclamation materials including, where appropriate, capillary break material, textural break material, inert rock fill, clay cap materials, other subsoils, and topsoils;

- g. A comparison between the available reclamation materials and the amount used for reclamation;
 - h. Status of all conditions of the permit;
 - i. Annual summary and evaluation of environmental monitoring;
 - j. Status of any special studies required as a part of the permit;
 - k. Operating summary of the mine waste unit(s) including a comparison between the actual waste stream characterization as compared with the anticipated characterization;
 - l. Summary of inspection records;
 - m. The financial information contained in Section 26(H)(3)(g);
 - n. A description of any material changes in the financial condition of the permittee; and
 - o. A description and location of all significant repairs to underground leaks and fissures and to the mine waste units, including the timing of such repairs.
2. For the upcoming 12 months:
- a. A statement describing the financial capability of the applicant to meet the requirements contained in the financial responsibility plan;
 - b. The anticipated extraction, including:
 - I. The rate, types, amounts, and schedule for extracting the ore body;
 - II. Anticipated reclamation and revegetation planned for the next year;
 - III. A comparison between the available reclamation materials contained in Section 26(F)(1)(e) and the anticipated reclamation needs for each type of material; and
 - IV. A revision of the financial responsibility plan emphasizing changes, if any, in costs associated with anticipated reclamation, closure, and post-closure maintenance of the site as well as the costs associated with any required corrective action.

3. The total area reclaimed to date.

G. Wildlife Reports. The permittee shall maintain a record of any wildlife mortalities that occur in association with the permitted facility. Those reports shall be provided quarterly to the Board. In addition, the permittee shall report all wildlife mortalities that are associated with chemical-containing tanks or impoundments by the beginning of the next working day following the occurrence or observation of those mortalities.

H. Financial Assurance. Financial responsibility for ensuring compliance with the reclamation, closure, and post-closure maintenance requirements of the permit, and the cleanup and corrective action costs of permitted or accidental releases, must be fulfilled through a trust fund as provided by this section.

1. Computation of Financial Assurance. The amount of the financial assurance required of an applicant must be approved by the Board and shall not duplicate any financial assurance provided by the applicant to other governmental agencies. The type of financial assurance must be as described under this Ordinance and is otherwise subject to the approval of the Board and its representatives. As annually or otherwise determined by the Board according to this Ordinance, the amount of the trust fund must be, at a minimum, the estimated cost to a third party for:

a. Completing the reclamation for all disturbed areas and all areas expected to be disturbed within the upcoming year;

b. Closure and post-closure maintenance requirements for mine waste already generated together with mine waste expected to be generated within the upcoming year; and

c. Corrective action costs responding to a credible accident that may occur after closure as determined by the Board and its representatives, or correction action costs as required by a corrective action plan or as otherwise determined by the Board and its representatives under this Ordinance.

d. Monitoring, maintenance, and other activities listed in Section 35(B)(3) of this Ordinance which the Board determines the Town of Union may reasonably conduct after expiration of the post-closure care period.

2. Trust Fund Requirements. The permittee shall pay into a trust fund established for the benefit of the Town of Union as follows:

a. The trust fund shall be funded by the permittee through cash deposits. In lieu of cash deposits, the permittee may provide one or more irrevocable letters of credit in a total amount (including previously provided and unexpired letters) equal to 100% of the total of all annual cash deposits otherwise required under this section.

b. The trust fund shall be established in a financial institution, acting as trustee, with trust assets under management of not less than \$200 million and whose unsecured long-term debt is rated "A-1" or better by Moody's Investor Service or "AA" or better by Standard and Poors. In addition, the trustee shall have capital stock and surplus aggregating not less than \$25 million and a primary capital to asset ratio of not less than 8% and equity to total assets ratio of not less than 5%, determined in accordance with accounting rules of the primary federal regulator of the trustee.

c. The initial deposit into the trust fund for reclamation costs, identified in Section 26(H)(1)(a), and for credible accident response costs identified in Section 26(H)(1)(c), shall be made on or prior to site disturbance. Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.

d. The initial deposit into the trust fund for financial assurance for closure and post-closure maintenance, identified in Section 26(H)(1)(b), and for activities the Board may perform after expiration of the post-closure period identified in Section 26(H)(1)(d), shall be made in advance of the first placement of waste in a waste unit(s). Subsequent payments shall be made on or prior to the next subsequent anniversary date of permit issuance, and annually thereafter.

e. The amount and payment schedule for financial assurance for corrective action, identified in Section 26(H)(1)(c), shall be as specified in the corrective action plan or as otherwise determined by the Board under this Ordinance.

f. Annual deposits or increases in the required trust fund amount shall be made from the beginning of operations until the end of the post-closure period. Without limitation, changes in the amount in the trust fund may be required due to modifications of the permit, changed financial or site conditions, technology changes, inflation, anticipated changes in mining activity and waste unit utilization, or changes in requirements for closure, post-closure maintenance, corrective action, or reclamation. The permittee shall annually report to the Board, subject to the Board's approval, with or without conditions, an estimate of cost changes as provided in this Ordinance. The permit remains in effect only if all required deposits or increases are made within 30 days of the due date provided in this Ordinance. The obligation to make deposits or adjust the letter of credit amount ceases only upon approval from the Board.

g. When computing the annual inflation adjustment for reclamation, closure, post-closure, or corrective action trust funds, the Board and the permittee must use the Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in "Survey of Current Business," or a successor index.

h. All interest or other income resulting from the investment of funds in the trust fund shall be deposited into the trust fund, may be used to offset subsequent payments into the trust fund, and shall be subject to the same restrictions as the principal. The permittee may request from the Town of Union release of income or interest of any balance over the required amount. The Town of Union shall grant such a request when it finds the trust fund is adequately funded and the release will not adversely affect the ability of the fund to cover its intended expenses.

i. The Town of Union may at its discretion grant approval for the withdrawal by the permittee of portions of the trust fund upon the permittee's verification that the sum(s) authorized have been used solely for their intended, and Board authorized, purposes provided, the remaining funds are sufficient to cover expenses required by this Ordinance. In any event, 25% of the financial assurance obligations covering closure, post-closure maintenance, and reclamation shall be retained in the trust fund until all reclamation and closure activities are completed.

j. If a permit is suspended, revoked, or not renewed, the permittee shall continue to make deposits according to this Ordinance.

k. The Town of Union shall be a party to the trust agreement as beneficiary and shall have the right to withdraw and use part or all of the funds in the trust fund or to require the liquidation of the assets of the trust fund, including any letter of credit, at its sole discretion, to carry out reclamation, closure, post-closure, and corrective action requirements as the Board determines necessary. The trust agreement shall provide that there shall be no withdrawals from the trust fund except as authorized in writing by the Selectmen.

l. The financial assurance cost estimates shall be made in U.S. dollars in accordance with established estimating practices and shall not incorporate any salvage value that may be realized by the sale of materials, wastes, site structures or equipment, land, or other assets associated with the site.

m. The proposed trust agreement shall be submitted to the Board for review and shall be subject to its approval.

3. Management of the Trust Fund

a. The trust fund shall not constitute an asset of the trustee or permittee and shall be established in such a manner so as to ensure the funds in the account will be available to the Town of Union and not any creditor, including in the event of bankruptcy or reorganization of the trustee or permittee. The permittee shall pay all costs of managing the fund and compensating the trustee.

b. The trustee shall observe the standards in dealing with the trust fund that would be observed by a prudent person dealing with the property of another, bearing in mind the overriding investment purposes set out in Section 26(H)(3)(d), and shall bring to bear all special skills and expertise available to the trustee as a professional fiduciary.

c. The trustee shall not invest assets of the trust fund in any real estate or real estate investment trust (as defined in the Internal Revenue Code of 1986, 26 U.S.C. 856(a), any contract for the future sale or delivery of commodities or foreign currency, any corporate or municipal bond not rated "A-1" or better by Moody's Investors Service or "AA" or better by Standard and Poors, any equity instrument the issuer of which does not have at least one class of securities registered with the United States Securities and Exchange Commission under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq., or any security issued by the permittee or applicant or any affiliate (as such term is defined in the Investment Company Act of 1940, 15 U.S.C. 80a-1, et seq.) thereof.

d. The trustee shall invest the assets of the fund in a manner that assures to the greatest possible extent the availability of the assets in liquid form on notice of 30 days or less and also assures the safety of the principal of the trust fund and the availability of the assets of the trust fund for a vital public purpose.

e. The trustee shall notify the Board immediately in the event that any payment or letter of credit has not been received from the permittee by the due date.

f. With respect to any letter of credit held by the trustee in the trust fund, the trustee must assure that the letter of credit is issued by a financial institution meeting the requirements of Section 26(H)(5)(c) and that the other requirements of Section 26(H)(5) are satisfied.

g. The trustee shall submit to the Board an annual statement of deposits, letters of credit, investments, and any income and principal in the trust fund, and changes in the same over the prior year.

4. Close-Out or Release of the Trust Fund

a. When requesting close-out of the portion of the trust fund covering reclamation, known corrective action, and post-closure maintenance, the permittee shall submit to the Board an environmental evaluation of the waste units, reclamation, and any required corrective action to ensure that any remaining problems are identified and corrected before financial assurance is released. Upon the expiration of the post-closure care period, the remaining trust funds necessary to cover credible accident response costs and the monitoring and maintenance activities described in Section 26(H)(1)(d) shall not lapse.

b. When the Town of Union make a determination to release funds from the trust fund, it shall notify the trustee and the permittee in writing of the decision. At that time, the Selectmen shall supply the trustee and permittee with written approval to transfer the excess funds or to close the account. The Town of Union does not release the permittee from any reclamation, closure, post-closure, or corrective action requirements or third party liability as a result of releasing any funds.

5. Letter of Credit Requirements. The following requirements shall apply to all financial assurances utilizing a letter of credit:

a. The letter of credit must be unconditional, irrevocable, issued for a period of at least 1 year, and otherwise in a form satisfactory to the Board. At least 90 days before the expiration date, the financial institution issuing the letter of credit must notify the trustee, the permittee, and the Board if the letter of credit will not be renewed for an additional 1-year period, and the letter of credit shall so provide. If the permittee is unable to obtain a letter of credit that complies with this Ordinance prior to 45 days before the expiration of the current letter of credit, the trustee shall immediately draw all funds under the letter of credit and deposit those in the trust fund. The trustee must also take all other measures necessary to maintain the letter(s) of credit as provided herein and to assure such letter(s) do not expire unless replaced with another duly qualified letter.

b. The letter of credit shall be issued so as to be drawn upon unconditionally by the trustee to meet the terms of the trust fund or otherwise at the call of the Town of Union.

c. The financial institution issuing the letter of credit must meet the following financial criteria, as reviewed no less often than annually by the trustee:

- I. Its unsecured long-term debt is rated "A-1" or better by Moody's Investor Service, or "AA" or better by Standard and Poors.
- II. It has assets of not less than \$1 billion and capital stock and surplus of not less than \$100 million and a primary capital ratio of not less than 8% and equity to total assets ratio of not less than 5% determined in accordance with accounting rules of the primary federal regulator of the financial institution.
- III. In the event that an issuer of a letter of credit ever fails to meet these criteria, the trustee shall immediately order the permittee to

replace it with a properly qualifying letter of credit, failing which the trustee shall immediately liquidate the letter of credit.

d. The proposed letter of credit shall be submitted to the Board for review and approval.

e. In the event the Town of Union delivers to the trustee a certificate so requesting and signed by the Selectmen, the trustee shall draw down the full amount available under the letter of credit specified in the certificate and shall add to the trust fund the amount drawn down.

f. If the trustee draws on any letter of credit, the trustee shall promptly report to the Board and the permittee the amount of such draft, the section or sections of the trust agreement calling for such a draft, and the disposition of the proceeds of such draft.

g. A financial arrangement in the form of a bond but that otherwise qualifies as a letter of credit meeting the requirements of this section shall be considered a letter of credit for purposes of this Ordinance.

6. Proof of Insurance. The applicant must include, as part of a financial responsibility plan, and provide annually thereafter as part of the annual report required under Section 26(F) of this Ordinance, proof of comprehensive liability insurance for the site for sudden and accidental and for non-sudden occurrences. The amount of non-sudden occurrence insurance shall be assessed by the Board on a case-by-case basis taking into account the potential of the mine site to pollute groundwater. The insurance underwriter(s) must be approved by the Board. Requirements include, but are not limited to, the following:

a. Liability insurance coverage must be provided during operation, reclamation, closure, and, where mine wastes will remain on the site after closure, during the post-closure maintenance period.

b. The level of coverage for sudden and accidental insurance must be at least \$5 million per occurrence and \$10 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Board for a particular site.

c. All liability insurance coverage amounts must be exclusive of legal defense costs.

d. An applicant may not self-insure. If liability insurance is unavailable, a \$5 million letter of credit drawn upon a reputable bank which meets the criteria of Section 26(H)(5)(c) may be utilized in lieu of liability insurance for sudden and accidental occurrences.

e. The liability insurance policy may not be written as a "claims made" policy unless approved by the Board.

f. Non-sudden insurance can take the form of insurance or a financial mechanism providing coverage in a form acceptable to the Board other than self-insurance.

g. Where Group A wastes are managed, the level of coverage for non-sudden occurrence insurance shall be at least \$3 million per occurrence and \$6 million annual aggregate, unless because of a greater risk, a higher minimum is required by the Board for a particular site. The Board may also establish a lesser amount of coverage at a particular site where Group A wastes are managed based upon consideration of such factors as:

- I. The extent of treatment employed to reduce the potential of the mine waste to pollute groundwater;
- II. The length of time Group A mine wastes will remain on site; and
- III. Other measures undertaken by the applicant to reduce the potential of the mine site to pollute groundwater.

I. Performance Requirements. All sites must meet the performance requirements specified below.

1. Performance Requirements for Groundwater Quality

a. A site shall not cause a discharge of pollutants into groundwaters of the Town of Union that violates the Class GW-A standard as established in 38 M.R.S.A. 465-C.

b. Parameters for which performance requirements must be established in the permit are:

- I. Ag, As, Ba, Cd, Cr, Hg, Pb, Se, Ni, Cu, Co, Zn;
- II. pH, nitrate, sulfate;
- III. Radionuclides including gross alpha and beta; and
- IV. Other parameters determined to be present by the waste characterization conducted under Section 31 of this Ordinance which may pose a threat to public health or the environment.

c. Performance requirements for parameters identified above must be established for each site. For each parameter, the performance requirement shall be established in the permit using the following criteria:

- I. Maximum Contaminant Level (MCL) promulgated under the Safe Drinking Water Act National Primary Drinking Water Regulations, or the Rules Relating to Drinking Water as developed by the Maine Department of Human Services, whichever is lower; or
- II. The Maximum Exposure Guideline (MEG) as developed by the Maine Department of Human Services; or
- III. The health-based level that is protective of human health and the environment using a risk-based approach consistent with the following:
 - AA. The level established under the procedures set forth in the Maine Bureau of Health "Policy for Identifying and Assessing the Health Risks of Toxic Substances," February 1988;
 - BB. For known or probable carcinogens, the concentration associated with maximum probability of excess lifetime risk of 1×10^{-6} ;
 - CC. For non-carcinogenic toxicants, the concentration that is likely to present no appreciable risk of adverse effects over a lifetime; and
 - DD. Environmental risk, as determined by the Board.
- IV. Naturally occurring background concentrations as determined in baseline studies may serve as performance requirements when background concentrations for specific parameters exceed the concentration set pursuant to Section 26(I)(1)(c)(I), (II), and (III).

d. Performance requirements for groundwater will also be set to ensure that surface water quality standards will be maintained. The hydraulic connection between groundwater and surface water will be assessed in order to assign any performance requirements necessary to ensure that surface water quality standards are maintained.

e. Where a performance requirement in groundwater necessary to protect surface water quality is more stringent than the applicable drinking water or health-based performance requirement, then the performance requirement necessary to protect surface water shall apply.

f. A mine site shall be sited, designed, constructed, operated, and closed in a manner that does not substantially impair existing groundwater uses, either in quality or quantity, within the Town of Union.

2. Performance Requirements for Surface Water Quality

a. A site shall not cause a discharge of pollutants into surface waters of the state that violates either the Surface Water Classification Program, 38 M.R.S.A. 464 et seq., or the Protection and Improvement of Waters Act, 38 M.R.S.A. 414-A.

b. Surface water performance requirements shall be established in the permit. The performance requirements for specific parameters shall be established to ensure attainment of state surface water quality standards. Title 38 M.R.S.A. 420, specifies the numeric criteria for controlling the presence of toxic substances in surface water, and a procedure for DEP to adopt new, revised, or alternative site-specific numerical criteria. These numeric criteria shall be incorporated into the performance requirements for surface water quality. Naturally occurring background concentrations as determined in baseline studies may serve as performance requirements when background concentrations for specific parameters exceed the numeric criteria identified above.

3. Performance Requirements for Air Quality. A site shall not cause a violation of an applicable state ambient air quality or emission standard.

4. Performance Requirements for Soils and Surficial Materials

a. Best management practices shall be required to control fugitive emissions and other contamination into or upon any land.

b. If the Board determines that a parameter released from, or as a result of, the mining activity creates a risk to the environment or human health, a numeric performance requirement may be established for that parameter. Such risk shall be determined based on impacts including, but not limited to, direct contact, bioaccumulation in plants and animals, and foodchain concentration that may occur on and off site within project vicinity.

Section 27. Corrective Action

A. Corrective Action Trigger. If there is an exceedance of any performance requirement, the permittee must complete the following actions:

1. Notify the Board, Selectmen, and the Code Enforcement Officer orally, immediately, and in writing within the next three working days of the exceedance.

2. Commence corrective action as outlined below, unless the Board determines that another course of action is more appropriate.

3. Continue to monitor as required. The Board may require more frequent or more extensive monitoring that may include the installation of additional groundwater monitoring wells as the Board determines may be necessary.

4. Take all other actions necessary to minimize contamination of the environment and risk to public health in accordance with the Contingency and Emergency Procedures Plan as outlined in Section 23, if appropriate.

5. The permittee shall notify persons who may be adversely affected by releases from the site.

B. Interim Measures. During implementation of corrective action, the Board may require the immediate implementation of interim measures.

C. Release From Corrective Action. The permittee may demonstrate that a source other than the activity solely caused the exceedance or that the exceedance is an artifact caused by an error in sampling, analysis, or natural variation of the environmental media being monitored. The permittee may be released from the requirement to prepare a corrective action plan if the demonstration shows, to the satisfaction of the Board, that a source other than the site caused the exceedance, or that the exceedance resulted from an error in sampling, analysis, or evaluation. Corrective action or interim measures shall continue unless and until the Board determine that the site did not cause or contribute to the exceedance.

D. Corrective Action Plan Development Schedule

1. If the Board determines that corrective action is necessary, the permittee shall submit a schedule for corrective action plan development within 14 days of that determination.

2. The schedule shall identify the specific information that will be collected for the corrective action plan and the date that the corrective action plan will be submitted to the Board for review, all subject to the approval of the Board, with and without conditions.

E. Corrective Action Plan Development and Submission

The permittee shall prepare and submit 20 copies unless otherwise specified by the Board a corrective action plan, based on the corrective action plan development schedule approved above.

1. This plan shall, at a minimum:

- a. Be protective of public health and environment;
- b. Propose a remedy to control the sources of releases and ensure compliance with the performance requirements throughout operation, reclamation, closure, and post-closure maintenance;
- c. Propose a schedule for implementing corrective action;
- d. Provide a cost estimate for corrective action activities; and
- e. Provide financial assurance for corrective action costs pursuant to Section 26(H).

2. In developing the corrective action plan, at a minimum, the following shall be considered:

- a. Extent, nature, and cause of contamination;
- b. Identification of remedies to achieve compliance with the performance requirements and to prevent future exceedances;
- c. Availability of alternative treatment or disposal measures during implementation of the corrective action;
- d. Evaluation of performance, reliability, timing and ease of implementation, and potential impacts (including safety and cross-media environmental impacts) of alternative corrective actions;
- e. Potential risk to public health and the environment prior to completion of corrective actions;
- f. Evaluation of requirements (e.g., federal, state, and local permit requirements, environmental or public health requirements) that could substantially affect implementation of potential corrective actions; and
- g. Other relevant factors specified by the Board.

F. Corrective Action Plan Approval

1. Prior to reaching a final decision on the proposed corrective action plan, the Board shall hold a public hearing and provide for a public comment period of at least 30 days.

2. If, after review of the proposed corrective action plan and any comments on the plan, the Board does not approve the plan, with or without conditions, the Board may require the permittee to revise the corrective action plan or prepare a new plan, which may be based on a remedy identified by the Board. In such cases, the permittee shall submit a new corrective action plan development schedule as required above. The revised plan shall address the elements identified above and any other factors that the Board determines are appropriate, and shall be reviewed and approved by the Board, with or without conditions. The Board may direct the permittee to modify the corrective action plan at any time in order to protect public health and the environment.

3. At any time after an exceedance of a performance requirement, the Board may, in addition to requiring the development and implementation of a corrective action plan, require the permittee to implement such interim measures as may be necessary to protect public health or the environment, including the cessation of some or all activities.

G. Corrective Action Plan Implementation

1. Upon approval by the Board, the permittee shall implement the approved corrective action plan.

2. The permittee shall notify persons who may be adversely affected by any corrective action measures.

3. During implementation of the corrective action plan, the permittee may propose an alternative corrective action plan for approval by the Board. The corrective action shall continue until the alternative corrective action plan is approved by the Board, with or without conditions.

H. Corrective Action Plan Completion

1. Corrective action plan implementation pursuant to this section shall be considered complete when the Board determines that compliance with the performance requirements and other legal requirements has been achieved for 12 consecutive quarters of monitoring.

2. Upon completion of corrective action, the permittee must submit to the Board certification that corrective action is complete in accordance with Section 27(H)(1) and by public notification of said certification in one newspaper with the largest circulation in the county.

Sec 27/I
Sec 28,29,30
Sec 31/A,B

I. Enforcement Reserved. The provisions of this Ordinance relating to corrective action shall not affect the Town of Union's enforcement rights and remedies as set forth in Sections 48 and 49 of this Ordinance or under common law. In addition to any penalties the law provides, such enforcement action may seek remedial and/or mitigation work that is in accordance with a timeframe or otherwise of a manner different from that prescribed above for corrective action plans, if the Town determines such enforcement response necessary.

SUBCHAPTER 5. MINE WASTE TREATMENT AND MANAGEMENT

Section 28. Purpose of Mine Waste Treatment and Management Requirements

The purpose of this subchapter is to classify mine waste and to regulate the location, design, construction, operation, maintenance, closure, and long-term care of units for the storage, treatment, and disposal of mine wastes.

Section 29. [Reserved]

Section 30. [Reserved]

Section 31. Waste Characterization

The characterization and analysis of mine waste required under this Ordinance shall include, but is not limited to, tailings and waste rock. All mine waste generated, disposed of, or otherwise handled at the site shall be analyzed and characterized as follows:

A. Testing Frequency. Mine waste characterization and analysis shall identify the characteristics of the mine wastes. It shall be an evaluation of the quantities, variability, and physical, radiologic, and chemical properties of mine waste necessary for predicting the potential environmental impacts of mine waste handling, storage, treatment, and disposal and for determining specific treatment, disposal, and storage design. Evaluation shall be conducted prior to the issuance of a permit and thereafter as determined by the Board including, but not limited to, the following:

1. Changes in the character of the mine waste managed at the site; and
2. Changes in the design, operation, or management at the site which may potentially alter the characterization.

B. Mine Waste Evaluation. Testing shall be performed on the representative samples of individual mine waste from the extraction and beneficiation process, and of composite mine waste or other materials

where mixed storage or disposal of individual mining waste is proposed. The major components of mine waste characterization and analysis shall include, but are not limited to, the following:

1. Identification of all mine waste which will be disposed of, stored, or handled at the site, or removed from the site including classification of waste types, estimation of the generation rates and volumes of each type, and an explanation of the ultimate disposition of each type;
2. Chemical, radiologic, and mineralogic analyses of the mine wastes;
3. Description of expected particle size distributions of waste rock and analysis of particle size distribution of mill tailings;
4. Determination of the short- and long-term acid-producing characteristics of the mine waste, considering the acid producing content of the materials, the particle size and particle form of the acid-producing material, and the spatial distribution of its particles, the neutralizing effect of host materials, and the effects of acid precipitation (rain, snow, and dry deposition); and
5. Determination of the leaching potential of the mine wastes and determination of the composition of the resulting leachate.

C. Test Methods. The applicant shall describe in detail its proposed waste characterization program which consists of the methods of obtaining samples of mine waste, sample preparation, sample shipment, testing, and chain-of-custody methods employed in evaluating the mine waste characteristics, and shall provide justification for the use of such methods. The acid-producing and neutralization potential shall be determined by a static test method and confirmed by a kinetic test method. The applicant shall submit its characterization program to the Board and its representatives for review and approval, with or without conditions. Test methods other than those listed below may be used only if the Board first grants approval.

1. The following static test methods are typically accepted:
 - a. Acid-base accounting (Sobek 1978);
 - b. B.C. research initial test;
 - c. APP:S ratio;
 - d. Net acid production test; and
 - e. Modified acid-base accounting.

2. The following kinetic methods are typically accepted:

- a. B.C. research confirmation test;
- b. Modified biological oxidation test;
- c. Humidity cell;
- d. Shake flask test; and
- e. Soxhlet extraction.

D. Mine Waste Characterization Report. The applicant shall submit with its application a waste characterization report consisting of all test data concerning waste analysis for each type of waste, the testing program objective together with an interpretation of the results, and options for the control of acid generation and waste containment.

E. Mine Waste Classification. Based on the mine waste characterization required above, the applicant shall propose, subject to the approval of the Board, with or without conditions, classifying each mine waste as a Group A, Group B, or Group C waste according to the following criteria:

1. The mine waste has a net acid-producing potential or exhibits a characteristic of hazardous waste as defined in 06-096 CMR 850. Such waste shall be classified as Group A wastes.

NOTE: Group A waste may include, but is not limited to, waste rock, tailings, and leachate derived from those wastes.

2. The mine waste has no net acid-producing potential and may release soluble pollutants at concentrations which exceed performance requirements for groundwater or surface water. Such waste shall be classified as Group B waste.

3. The mine waste does not have the potential to violate water quality standards other than sedimentation or turbidity. Such waste shall be classified as Group C waste.

Section 32. General Criteria for Mine Waste Units

A. Performance Standards. All mine waste units shall be designed, constructed, operated, and maintained during the development, operation, closure, and post-closure maintenance period in a manner that meets the applicable requirements of Section 25 and:

1. Meets the performance requirements for groundwater, surface water, air, and soils or surficial materials established under Section 26(I) of this Ordinance;

2. Minimizes acid generation and acid rock drainage;

3. Provides structural stability;

4. Protects public health and the environment; and

5. Otherwise complies with applicable legal requirements.

B. Runon/Runoff Control Systems

1. The applicant shall design, construct, and maintain:

- a. A runon control system to prevent or control surface water flow onto the mine waste unit during the peak discharge from at least a 24-hour, 200-year storm; and

- b. A runoff control system to collect, control, and treat surface water runoff from the mine waste unit of at least the water volume resulting from a 24-hour, 200-year storm.

2. Runoff from a mine waste unit shall not cause a discharge of pollutants into waters in the Town of Union in violation of any requirements of this Ordinance or other ordinances of the Town of Union or applicable state law.

3. All surface impoundments associated with waste units shall be designed, constructed, maintained, and operated to prevent overtopping as a result of a 24-hour, 200-year storm event. An emergency overflow spillway shall be provided for storm events equivalent to the 24-hour, 200-year storm.

C. Design Alternatives. The applicant shall evaluate the following design features for mining waste units:

1. Underdrain systems allowing for free passage of water beneath waste units;

2. Leak detection systems and redundancy features such that the failure of or leakage through a liner will not result in significant pollutant release beyond the confines of the mining waste units;

3. Use and re-use of process and impounded fluids for beneficiation and other appropriate activities to the maximum extent technically practicable; and

4. Collection, treatment, and final disposal of excess impounded fluids, wastewater, and leachate.

D. Off-Site Utilization. The off-site utilization of mine waste within the Town of Union shall be subject to approval of the Board.

E. Waste Minimization. The applicant shall demonstrate that the methods of management of mine waste will minimize the risk to public health and the environment at the site. Such demonstration shall include an analysis of the practicability of the re-use, in-mine disposal, sale, recovery, or processing of such wastes, and shall provide for such re-use and recovery where determined to be practicable by the Board.

Section 33. Location, Design, Construction, and Operating Criteria for Mine Waste Units

A. Location Standards

1. A mine waste unit for Group A waste shall not lie closer than 5,280 feet to a classified body of surface water, and a mine waste unit for Group B waste shall not lie closer than 2,640 feet to a classified body of surface water.

2. The disposal of Group C waste is prohibited closer than 1,000 feet to any classified body of surface water without approval of the Board. Based on the nature of Group C mine waste, in issuing an approval, the Board will consider whether the disposal within 1,000 feet of a classified body of surface water will not result in an unlicensed direct or indirect discharge of pollutants to such body of surface water, provided the following conditions are met:

a. The Group C mine waste shall not be placed in the water, below the normal high water line, or in a wetland.

b. The Group C mine waste shall be placed so that it cannot fall or be washed into the surface water body.

c. The sideslopes shall be adequately stabilized and at no greater than 20% of gradient.

d. Such other precautions are taken as necessary, in the judgment of the Board, to protect water quality.

3. The mine waste unit shall not be located within 200 feet of a fault that has had known displacement in Holocene time.

4. A mine waste unit used to manage Group A or Group B mine waste shall have an acceptable soil or a base preparation grade a minimum of 5 feet above bedrock. The base preparation grade may not include any portion of the liner system.

5. No mine waste unit shall be located in an area overlying complex hydrogeology.

6. The applicant for a mine waste unit used to manage Group A or Group B waste shall provide a thorough hydrogeologic assessment of the area underlying a proposed mine waste unit and the adjacent area that could be affected during operation of the mine waste unit or the failure of any engineered barriers to leachate and groundwater movement. The applicant may use hydrogeologic information obtained during baseline monitoring. The hydrogeologic assessment shall include, but is not limited to, the following:

a. The methods used in, and the results of, bedrock aquifer pumping tests performed as part of the hydrogeologic assessment;

b. The methods used for, and the results of, in-situ hydraulic conductivity tests performed as part of the hydrogeologic assessment of bedrock and surficial deposits; and

c. An assessment of the potential impact on the ground and surface water quality expected in the event of discharge of pollutants outside engineered containment systems. The assessment shall include the following:

- I. Potential volume of release;
- II. Area and location of source;
- III. Initial concentration;
- IV. Magnitude and direction of groundwater flow;
- V. Attenuation capacity including dilution and a discussion of hydrodynamic and ionic dispersion, horizontal and transverse dispersivity, and vertical mixing;
- VI. Recharge;
- VII. Time of travel to the bedrock aquifer, classified bodies of surface water, significant sand and gravel aquifers, and public and private water supplies;
- VIII. Direction of travel, including flow path and contaminant transport modeling for conservative and non-conservative contaminants; and
- IX. Projected extent and quality of plumes.

7. A mine waste unit for disposal of mine waste shall not overlie a significant sand and gravel aquifer, or pose an unreasonable threat to the quality of a significant sand and gravel aquifer which it does not overlie, or pose an unreasonable threat to an underlying fractured bedrock aquifer.

8. An "unreasonable threat" to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer shall be determined to exist when a parameter in exceedance of a performance requirement under this Ordinance is able to travel from the waste unit to the aquifer in 6 years or less.

9. The Board may modify the "unreasonable threat" standard above if the applicant demonstrates that the mine waste unit siting, design, or operation features a high degree of protection against groundwater pollution.

B. Minimum Design Standards

1. The design of waste units for the management of Group A mine waste shall provide for a liner system which includes a composite liner, a leachate collection and removal system in the case of a dry mine waste unit, a leak detection system, and other redundancy features such that the failure or leakage through the composite liner will not result in significant pollutant releases beyond the confines of the waste units. A composite liner shall consist of the following:

a. A clay or compacted till bottom liner having a permeability of less than or equal to 1×10^{-6} cm/sec with a minimum 2-foot thickness; and

b. A flexible membrane liner having a minimum thickness of 40 mils.

c. Both components of the liner system shall be compatible with the mine leachate. The permeability shall be tested with the leachate as well as water. Both permeability values shall be within the required standard of this Ordinance.

2. Leachate collection ponds shall be provided with the liner system described in Section 33(B)(1) of this Ordinance except that leachate collection and removal may be excluded.

3. The design of waste units for the management of Group B mine waste shall provide for a liner system that includes a leachate collection and removal system in the case of a dry mine waste unit, a clay or till bottom liner having a permeability of less than or equal to 1×10^{-7} cm/sec with a minimum 3-foot thickness, a leak detection system, and other redundancy features such that failure or leakage will not result in significant pollutant releases beyond the confines of the waste units.

C. Engineering Design. The mine waste unit design shall be based on the results of the subsurface investigation, hydrogeological conditions of the proposed site, waste characterization, and closure objectives. The design shall address site strengths and limitations identified in the investigation, evaluate methods to utilize these strengths or overcome these limitations, and discuss the selected engineered methods to overcome the limitations. The sophistication of the engineering and design will vary according to the type of mine waste unit; the physical characteristics of the site; and the characteristics, chemical and physical stability, and volume of the mine waste. An engineering design shall be submitted as part of the application and shall meet the following requirements:

1. Any flexible membrane proposed for use as a liner must:
 - a. Be supplied by a National Sanitation Foundation (NSF) certified manufacturer;
 - b. Meet or exceed NSF Standard #54 specifications; and
 - c. Meet required performance specifications for the proposed application.
2. Clay or till proposed for use as a liner must:
 - a. Have a Liquid Limit (LL) greater than or equal to 20;
 - b. Have a Plasticity Index (PI) greater than or equal to 8;
 - c. Have a minimum in-place density of 90% of maximum as measured by the Standard Proctor test (ASTM-D-698);
 - d. Be compacted within 4% above optimum moisture content as determined by ASTM-D698;
 - e. Have a minimum fines content of 35%;
 - f. Have a maximum particle size less than or equal to 3 inches; and
 - g. Have a maximum compacted lift thickness of 9 inches.
3. The base preparation grade material below the liner system shall:
 - a. Have a minimum in-place density of 90% of maximum as measured by the Standard Proctor test (ASTMD-698);
 - b. Not be comprised of sand, gravel, stone, peat, or muck;

c. Provide for, where necessary, the addition of fill material to the mine waste unit for grading purposes or to obtain the required separation of waste from bedrock, and demonstrate that:

- I. Moisture will be controlled during filling;
- II. Density will be controlled during filling; and
- III. Attenuative capacity will be provided.

d. Provide for a maximum compacted lift thickness of 9 inches.

4. If a mine waste unit will generate leachate, the applicant shall provide a description of the leachate management methods for the unit, including the process flow diagram for water use and reuse at the site, and a water balance for each unit.

a. If a mine waste unit will generate leachate in excess of the amount reused and the leachate management method will be to collect, store, and recirculate to the unit, the on-site storage shall be based on the following requirements:

- I. Sufficient storage capacity is provided to contain the excess leachate generated as determined from the site water balance information.
- II. The calculated volume of leachate to be generated shall be based on the most recent historical annual precipitation data, with a minimum of a 15-year data base.
- III. Leachate storage shall include capacity for the precipitation from a 24-hour, 200-year storm falling on the mine waste unit and the leachate storage pond (if uncovered).

b. If a mine waste unit will generate leachate in excess of the amount reused and the leachate management method will be collection, storage, and transportation either on-site or off-site for treatment, the following requirements shall be met:

- I. Sufficient storage capacity is provided to contain the leachate generated over 7 consecutive days based on the average daily flow during the worst-case design month without transport to the treatment facility.

II. The calculated volume of leachate to be treated shall be based on the most recent historical annual precipitation data, with a minimum of a 15-year data base.

III. The off-site treatment facility shall have capacity for treatment of the precipitation from a 24-hour, 200-year storm falling on the mine waste unit and the leachate storage pond (if uncovered).

c. Leachate storage ponds must incorporate the following:

I. Forty inches or 1 meter of freeboard measured to the lowest spillway elevation or an additional capacity volume equal to 25% of the total required capacity, whichever provides greater storage volume. Additional freeboard or other measures may be required to contain wave action as necessary; and

II. A staff gauge, or similar device, installed in the pond to measure leachate depth.

d. When leachate will be collected or transported by piping, the leachate piping system must incorporate the following:

I. A minimum pipe diameter of 6 inches;

II. Pipe materials physically and chemically compatible with the mine waste;

III. Pipes designed and built to operate without clogging during the life of the mine waste unit and post-closure maintenance period; and

IV. Pipes designed with accessibility for routine cleaning and maintenance.

V. If Class A and Class B leachate, all piping will be designed with double-wall construction with monitoring in the outer void to detect leaks in the primary pipe.

e. For a mine waste unit where leachate will be collected in a sand drainage blanket, the sand drainage blanket must incorporate the following requirements:

I. Each sand drainage layer used for leachate collection/detection must have a minimum thickness of 12 inches.

II. The sand in the drainage layer must have a permeability of greater than or equal to 1×10^{-2} cm/sec.

f. The leachate transport line leading into the leachate collection pond shall be designed for cleanout of the line and for leachate sampling without the need for human access.

g. For a mine waste unit where leachate will be collected, the applicant shall submit collection system efficiency calculations.

D. Engineering Report. The engineering report for a mine waste unit shall present the basis for the engineering design and the proposed construction techniques and operational techniques, along with all data and calculations, and shall include, but is not limited to, the following where applicable:

1. An assessment of the mine waste unit site stability in relation to the proposed use of the mine waste unit site, including consolidation characteristics and a base failure analysis. The site stability shall be based on a minimum long-term factor of safety of 1.50 and a minimum short-term factor of safety of 1.25;

2. An assessment of the waste slope stability including the engineering properties of the waste and a failure analysis;

3. An assessment of the volume of leachate to be generated by the mine waste unit. As determined by the Board, a standard method for determining leachate quantity shall be used, such as "Hydrologic Evaluation of Landfill Performance (HELP) Model," (EPA/530-SW-84-009 and EPA/530-SW-84010).

4. If the applicant proposes to treat liquid mine waste or leachate derived from mine waste prior to disposal, a demonstration, to the satisfaction of the Board, that:

a. The mine waste or leachate is capable of being treated using the processes proposed, based upon trial tests and/or an engineering assessment that determine the treatment technique, its effectiveness, and any limiting factors.

b. The design measures and operating procedures will maximize the success of the treatment.

c. The mine waste unit design and components are compatible with the mine waste and the treatment process.

d. The treatment process can and will be controlled at all times so as to prevent unlicensed releases of mine waste or its constituents or derivatives and to protect the public health and safety and the environment.

e. A treatment system for mine waste identified as hazardous pursuant to 06-096 CMR 850 or other applicable law shall be designed, constructed, operated, and closed in accordance with 06-096 CMR 854.

5. An assessment of the failure of all engineered systems, including, without limitation, equipment, liners, leachate collection, treatment and transport, storage systems, and waste stability. The assessment shall include the following:

a. All potential modes of failure;

b. How each type of failure will be detected;

c. The impacts of each type of failure on the engineered system as a whole, as well as on the components of the engineered system;

d. Repair measures applicable for each type of failure;
and

e. Associated costs and time schedules for repairs. This requirement shall only apply to items specifically identified by the Board.

6. A Quality Assurance/Quality Control (QA/QC) program, established and included with the application, to ensure that design concepts are implemented during construction. The QA/QC program shall include the following:

a. A narrative description of the need for and nature of the testing program;

b. A testing program to evaluate borrow materials, stockpiled materials, and in-place materials. The program shall also be used to evaluate manufactured products such as liners, geotextiles, and piping systems. The program is to include at least gradation, permeability, moisture/density, and destructive/nondestructive liner testing;

c. An assessment of construction equipment and manpower skills necessary to achieve design standards;

d. A list of required manufacturers' product certifications, installation certifications, and warranties; and

e. Provision for inspection of the installation of flexible membrane liners and appurtenances by a qualified independent inspection team. The application shall include the qualifications to be specified for such inspection team.

E. Design Plans and Cross-Sections. As part of the engineering design for all mine waste units, the application shall include the following:

1. Detailed plan views(s) of the site, at a scale of 1 inch=100 feet or larger, clearly indicating the following;

a. Existing grade of the mine waste unit, as established by a topographic survey, and the proposed initial and final grades. For slopes of 5% or greater, 5-foot contour intervals may be used; 2-foot contour intervals are required if the slope is less than 5%;

b. Location and elevation of the test pits and borings;

c. Location and elevation of the permanent on-site surveying benchmarks;

d. Area and annual sequence of the mine waste unit planned to be utilized for the first 5 years and every 5th year thereafter throughout the total life of the mine;

e. Location and description of all existing and proposed utilities and structures;

f. Location of surface water bodies, existing drainage ways, bogs, swamps, marshes, and wetlands;

g. Location of existing and proposed water supply wells;

h. Location of existing and proposed access roads;

i. Location of the proposed drainage diversion system, including siltation basins, if any;

j. Location of borrow pits;

k. Location of all proposed environmental and waste monitoring points;

l. Location and identification of buffer zones (strips) and visual screening provisions;

m. Location, if any, of areas for stumps and brush, areas for management of mine waste, and areas of ore storage;

n. Location of baselines for cross-section drawings of the site;

o. Location of fencing and gates;

- p. Locations for storage and management of leachate; and
- q. Locations of baseline monitoring points.

2. Detailed profile views of each mine waste unit are required as follows:

a. Cross-sections and longitudinal cross-sections of the mine waste unit as required to adequately describe the unit;

b. Typical cross-sections of the various road and water drainage features; and

c. Detailed profile views of the mine waste unit including the bedrock level, the seasonal high water table level, the existing land surface, the base grade, proposed lifts, the proposed final grade and final elevation of the completed disposal unit, and the test pits and borings as applicable to the mine waste unit.

F. Construction Standards. The permittee shall meet the following requirements:

1. A preconstruction conference between the permittee, its contractor(s), and the Board is required unless waived in writing by the Board.

2. The Quality Assurance/Quality Control Program approved by the Board shall be implemented at the beginning of construction and shall include continuous site inspections by qualified professionals. The qualified professional shall inspect non-specialty aspects of construction for conformance with the approved plans and specifications. Specialty items, such as flexible membrane liners, shall be inspected and tested by a qualified independent inspection team.

3. Before installation of any type of liner, an assessment shall be made of the impacts of climatic conditions, proposed installation procedures, and the proposed installation schedule on liner integrity. The liner, or liners, shall then be installed in a manner which minimizes seams and penetrations, and under conditions satisfactory to maintain the required characteristics of each liner. Flexible membrane liners are adversely affected by cold temperatures and shall be installed only during the period from April 15 through November 1 when the ambient temperature exceeds 40 degrees F. Any deviation from these requirements shall require submittal of a specific cold-weather installation plan for review and approval by the Board prior to construction.

4. The engineer responsible for construction inspection shall keep weekly construction inspection reports. The reports shall be mailed to the Board upon request. The weekly reports shall include,

but are not limited to, information generated during the week for the following areas, where applicable:

- a. Test results;
- b. Submittals and action taken;
- c. Summary of work progress, problems encountered, and how the problems were resolved; and
- d. Upcoming work items for the next 2 weeks.

Proposed changes to the design may require permit modifications and shall be reported to the Board before implementation.

5. The permittee shall provide the Board with copies of significant, representative photographic documentation of each stage of construction in two forms: video and 35-mm slides. The permittee shall provide video and 35-mm color slides of the completed construction with the final construction report.

6. The permittee shall provide record drawings, signed and stamped by a State of Maine registered Professional Engineer, to the Board within 30 days after construction completion for each phase.

7. A protected, permanent benchmark shall be established near the mine waste unit before the start of construction. This benchmark shall be shown on all record drawings and described in the first and the final construction reports.

8. A final construction certification and report shall be submitted by the permittee to the Board within 30 days following construction completion. The report shall include written certification, signed by the permittee's responsible officer and signed and stamped by the independent qualified professional supervising project inspection, that the mine waste unit has been constructed in accordance with the approved plans and specifications.

G. Operations

1. The permittee shall prepare and maintain an operations manual of current policies and procedures. A copy of the proposed operations manual shall be submitted to the Board with the application for any proposed mine waste unit. The operations manual provided with the application shall be as complete as possible. An up-to-date copy of the operations manual shall be available for inspection at the site and at the Union Town Office at all times. The operations manual shall include all the information necessary to enable supervisory and operating personnel and any persons evaluating the operation of the mine waste unit to determine the sequence of operation, plans, diagrams, policies, procedures, and legal

requirements that must be followed for orderly and successful operation on a daily, yearly, and life cycle basis. As a minimum, the operations manual shall address each of the areas identified in the operating requirements of this Ordinance. The permittee shall take whatever measures are necessary to familiarize all unit operating personnel with relevant sections of the operations manual.

2. A mine waste unit may receive only those materials approved for disposal, storage, or handling, as provided in the permit.

3. The permittee shall maintain equipment to ensure satisfactory performance capability for the various operations necessary for mine waste unit operation as necessary to meet the terms and conditions of the permit and this Ordinance and provide for the prompt repair and replacement of such equipment.

4. The permittee shall have a contingency plan and shall effectively implement it by obtaining necessary back-up equipment and spare parts to be used during periods of equipment and power outages.

5. The permittee shall inspect mine waste unit structures on a regular basis and include these inspection reports in the annual report described in Section 26(F) of this Ordinance. At a minimum, structures inspected shall include liners, leachate systems, pumps, berms, leachate ponds, drainage and erosion control devices, and cover systems, as appropriate. Regularly scheduled inspections and maintenance of the collection systems shall be performed. Specific inspection items to be included and frequency of inspections shall be proposed in the operating plan submitted with the application.

6. The permittee shall manage waste leachate in accordance with the standards of this Ordinance and shall make every effort to control leachate production. A leachate monitoring plan shall be developed to monitor the quality and quantity of leachate and leachate treatment residue. The parameters to be monitored and the frequency of monitoring shall be proposed in the plan. All monitoring results of leachate and leachate treatment residue shall be submitted to the Board. The results shall be submitted in the environmental monitoring component of the annual report, unless otherwise specified by the Board.

7. The permittee shall maintain a record of required operational information, including the quantity and characterization of waste received, the portion of the mine waste unit used, data from the monitoring program, and inspection records. The permittee shall submit an annual waste unit operating summary documenting all of this information. The operating manual shall include a format for and items to be covered in the operating summary.

8. The operation of the mine waste unit shall be under the supervision and direction of a person qualified and experienced in mine waste management.

9. The permittee shall ensure that mine waste is handled in accordance with the permit, this Ordinance, and all applicable laws.

Section 34. Monitoring Program

The applicant shall prepare an integrated environmental monitoring plan for all waste units at the site. The plan shall detail how the applicant proposes to comply with this section and shall be submitted with the application.

A. Groundwater. The following groundwater monitoring criteria apply to all mine waste units:

1. The monitoring system must have a sufficient number of groundwater wells, at appropriate depths and locations, to detect the presence of pollutants that may migrate from a mine waste unit. The downgradient component of the monitoring system must be placed as close to the mine waste unit, or units, if monitoring more than one unit, as practicable, based on the site hydrogeology, to determine on a representative basis the quality of groundwater adjacent to the unit(s).

2. Background groundwater quality monitoring well(s) shall be established in an area unaffected by mining activities or waste units and hydrologically upgradient of the units to be monitored.

3. Wells must be cased to maintain the integrity of the bore hole. Casing must be screened or perforated and packed with gravel or sand, where necessary, to enable collection of samples. Annular space (i.e., space between bore hole and casing) above the sampling depth must be sealed to prevent contamination of samples and groundwater.

4. Design, location, installation, development, and decommissioning of any monitoring wells, piezometers, and other measurement, sampling, and analytical devices must be documented in the annual operating summary required under Section 33(G)(7). All these factors are subject to review and approval by the Board, with or without conditions.

5. Monitoring wells, piezometers, and other measurement sampling, and analytical devices must be operated and maintained so that they conform to design specifications throughout the life of the monitoring program.

6. The number, spacing, location, and depths of monitoring systems shall be proposed by the applicant and must be approved by the Board and in consultation with appropriate representatives, with or without conditions, prior to installation. The applicant shall consider the following in its monitoring system design:

a. Characterization of saturated and unsaturated geologic units and fill materials overlying and underlying the uppermost aquifer including, but not limited to, thicknesses, stratigraphy, lithology, hydraulic conductivities, and porosities;

b. Characterization of the uppermost aquifer including, but not limited to, the thickness, flow rate, and flow direction;

c. Proximity, withdrawal rates, and uses by other current and potential future users of the aquifer potentially affected by the unit;

d. Physical and chemical characteristics and rates of release from the unit; and

e. Groundwater quality classification in the area.

7. Parameters for which the applicant must monitor shall include those for which groundwater performance requirements are established. Changes in parameters to be monitored may be made as determined by the Board.

8. Monitoring shall be at least quarterly during the life of the mine waste unit, including any post-closure maintenance period. The monitoring results shall be submitted to the Board within 30 days of the end of each quarter in a format approved by the Board.

9. The groundwater monitoring plan shall include a sampling and analysis plan, which shall include, but is not limited to, frequency of monitoring, parameters to be analyzed for, sample collection methods, sampling equipment, field analysis and preservation methods, sample holding times, sample handling procedures, sample data sheets, analytical methods, detection limits for each parameter, data validation and reporting methods, sampling and analytical quality assurance, quality control procedures, and sampling location map. The groundwater monitoring plan and any revisions to the plan are subject to review and approval by the Board, with or without conditions.

B. Surface Water and Sediments

1. The applicant shall establish a surface water monitoring system that is capable of detecting releases from the mine waste unit including, but not limited to, discharges licensed under 38 M.R.S.A. 413, of any parameter for which a performance requirement has been established. This system must be capable of detecting exceedances of performance requirements.

2. The applicant shall establish a sediment monitoring system capable of detecting accumulations of pollutants in sediments within water bodies affected by the site.

3. Surface water and sediment monitoring programs required pursuant to Section 34(B)(1) and (2) must, at a minimum, meet the following criteria, all subject to review and approval of the Board, with or without conditions:

a. Inclusion of consistent sampling and analysis procedures that are designed to ensure monitoring results that will provide a reliable indication of surface water and sediment quality. At a minimum, the program must include procedures and techniques for:

- I. Sample collection;
- II. Sample preservation and shipment;
- III. Analytical procedures;
- IV. Chain-of-custody control; and
- V. Level of detection;

b. Provision for surface water and sediment monitoring to determine background in the receiving water. Background samples shall be collected as close in time as possible to the collection of samples at the monitoring point; and

c. For the surface water and sediment monitoring program, specification of the monitoring frequencies for each parameter and media. Monthly monitoring shall be required for all monitored parameters in surface water unless a change in parameters or frequency of monitoring is approved by the Board. At a minimum, annual monitoring shall be required of sediments.

C. Air. Ambient air quality monitoring shall be as required by DEP pursuant to state law.

Section 35. Closure and Post-Closure Maintenance Criteria

A. Closure Maintenance Criteria

1. Performance Standards

a. The applicant shall design the closure of each mine waste unit to minimize the need for maintenance, and to control the release of mine waste and constituents into the air and the groundwater and surface water, and to ensure protection of health and the environment. Closure activities must:

- I. Meet performance requirements.

II. Comply with design, monitoring, and operating criteria approved in the closure plan for the unit.

III. Comply with the general technical requirements below.

b. At a minimum, the permittee shall undertake the following activities:

I. Provide certification by a qualified professional(s) that the mine waste unit, given its location, composition, and construction, is designed to meet current standards of practice for geotechnical engineering.

II. Institute or maintain a runoff/runoff control system that meets the requirements of this Ordinance.

III. Implement and maintain monitoring systems as approved in the closure plan.

IV. Close surface impoundments used to manage Group C mine wastes in a manner that will minimize erosion and the threat of water quality degradation from sedimentation.

c. For surface impoundments, ore leaching facilities including associated solution ponds, and collection systems including trenches, piping, leachate collection systems, and equipment, which contain leach solutions, the permittee shall ensure the following:

I. Water that is not to be recycled for processing or used for closure purposes under Section 35(A)(3)(d) shall be treated and disposed of in a manner that ensures compliance with the performance requirements and shall in any event comply with the terms and conditions of the permit.

II. Runon/runoff control and leachate collection and management systems shall continue until runoff and leachate no longer shall contain constituents in concentrations above those described in the performance requirements for a period of time specified in the permit or otherwise provided by the Board.

2. Closure Plan

a. A closure plan shall be submitted at the time of application for a permit. At a minimum, the plan must include the following information for each mine waste unit:

- I. The methods, designs, procedures, and processes necessary to satisfy the closure performance standards for each mine waste unit;
- II. An estimate of the maximum capacity and maximum rate of mine waste that can be managed in the unit at any time during the life of the mine waste unit;
- III. A description of activities required to close leaching operations, including compliance with the standards at the time of closure;
- IV. A schedule of closure activities; and
- V. A detailed cost estimate of closure activities.

b. Closure plans shall be amended to reflect any changes in unit design, operations, or mine waste management technology, and applicable legal requirements, at intervals not to exceed 5 years.

c. The closure plan for each mine waste unit shall minimize the on-site and off-site use or contact with mine waste if such use or contact would pose a significant risk to public health or the environment.

d. A copy of the closure plan shall be kept at the site or at an alternate location approved by the Board until the post-closure maintenance period has ended.

3. Closure Design Requirements

a. Closure design shall be based on the following factors:

- I. The geology and geologic setting of the unit;
- II. The character of the waste, including waste treatment;
- III. The potential for and degree of contamination of the environment at the unit, if applicable;
- IV. Corrective action in place or planned, if applicable;

V. The operating practices at the waste unit;

VI. The geographic location of the unit; and

VII. Any other factors which are necessary for an informed determination of an appropriate design.

b. The closure design shall minimize maintenance and control the release of parameters to ensure that performance requirements are met.

c. At a minimum, final closure requirements for dry mine waste management units are as follows:

- I. Final cover for a mine waste unit shall have a permeability less than or equal to the permeability of the primary liner system.
- II. The cover shall be designed and constructed to function with the minimum maintenance possible.
- III. Closed mine waste units shall be graded and maintained to prevent ponding and to divert surface drainage from covered wastes.
- IV. Areas with slopes greater than 10%, surface drainage courses, and areas subject to erosion by water and wind shall be protected to prevent such erosion.

d. At a minimum, final closure requirements for wet mine waste management units are as follows:

- I. Depth of water and saturated cover, if applicable, over the waste shall be maintained.
- II. Embankments around the closed unit shall be maintained.
- III. Water column mixing through wave action and turnover shall be minimized as necessary to control acid generation and leaching of pollutants.
- IV. No discharge to groundwaters shall be allowed except as licensed by the Board.

e. A protected, permanent benchmark shall be established on each closed mine waste unit. This benchmark shall be shown on all record drawings.

4. Closure Trigger

a. Closure must begin if for the preceeding 12 months the mine waste unit has not received for disposal more than 10% of the average annual volume of waste received during the mine life to date, unless the permittee has applied for the extension described in Section 35(A)(4)(b).

b. The Board may grant an extension to the initiation of closure if the permittee demonstrates that:

- I. The mine waste unit is planned to be used within the next 7 years.
- II. The mine waste unit is in compliance with performance, design, and operating requirements.
- III. The mine waste unit will continue to comply with performance, design, and operating requirements during the extension.

c. The Board may grant a 12-month extension, up to a maximum of seven extensions.

5. Certification of Closure

a. Within the 90-day period following closure of the mine waste unit, the permittee shall submit certification to the Board verifying that closure has been completed in accordance with an approved closure plan.

b. Certification shall be based on a review of the mine waste facility by a qualified professional approved by the Board, and also made by a responsible officer of the permittee.

B. Post-Closure Maintenance Criteria

1. Applicability. Following certification of the closure, the permittee shall commence post-closure maintenance for the closed mine waste unit.

2. Performance Standards

a. The permittee shall conduct post-closure maintenance activities to ensure the continued protection of public health and the environment, and to ensure the performance requirements continue to be met.

b. Site access during the post-closure maintenance period must be controlled as necessary to prevent the removal of mine waste and ensure continued effectiveness of closure and post-closure maintenance activities.

c. Post-closure land uses shall not impair the integrity of containment structures.

3. Requirements

a. The Board may require the applicant to conduct, at a minimum, any or all of the following activities during post-closure maintenance:

- I. Periodic sampling of the mine waste as necessary to characterize the mobilization or conversion of mine wastes or parameters;
- II. Inspection and maintenance activities necessary to maintain the structural and chemical stability of the mine waste unit;
- III. Continued operation and maintenance of runoff/runoff control systems and leachate management systems, if any;
- IV. Continued operation and maintenance of groundwater and surface water monitoring stations; and
- V. Any other measure necessary to prevent a violation of a performance or other legal requirement and otherwise to protect public health and the environment.

b. Mine waste units that have been closed may be reactivated or re-utilized only under a permit. The applicant shall ensure that:

- I. Operations conform to the performance requirements, design operating criteria, and monitoring requirements of this Ordinance; and
- II. If mining wastes remain in the mine waste unit following the removal of materials for additional beneficiation, or at the completion of additional storage or disposal activities, the mine waste unit is closed in compliance with the requirements of this section.

c. If any performance requirement is not met, the permittee shall develop and implement a corrective action plan pursuant to Section 27.

4. Post-Closure Maintenance Plan

a. The applicant shall prepare and submit a detailed post-closure maintenance plan as part of the application. At a minimum, the plan must include the following information:

- I. Description of activities and frequency of activities necessary to satisfy the performance standards;
- II. A detailed estimate of post-closure maintenance costs;
- III. Description of the planned use of the property to satisfy the post-closure maintenance performance standards, including the following information:
 - AA. Prevention of exposure of mine waste or constituents to the environment, unless such exposure would pose no significant risk to health or environment and is within licensed limits; and
 - BB. Continued maintenance of the structural and operational components of closure and post-closure; and
- IV. Name, address, and telephone number of the person to contact during the post-closure maintenance period. Such contact person shall be capable of responding to Board communications within 12 hours.

b. A copy of the post-closure maintenance plan shall be kept at the mine waste unit or alternate location as approved by the Board throughout the post-closure maintenance period.

5. Length of the Post-Closure Care Period. The post-closure care period for Group A and Group B wastes may end 30 years from the time of closure certification. For the Board to terminate the post-closure care period at such time, the Board must determine the mine waste unit has been in compliance with the performance requirements of this Ordinance and the post-closure performance standards of this section, and that the site will continue to remain in compliance with such standards. If the Board cannot conclusively make such determinations, the Board shall extend the post-closure care period by 10-year increments until the Board can conclusively make such determinations. The post-closure care period for Group C wastes shall be 5 years from the time of closure certification.

6. Deed Notation

a. During the first year following closure certification, the permittee shall record a notation on the deed to property, or other instrument normally examined during a title search, if any mine waste or constituent remain at the site.

b. The deed notation shall state that the land has been used for the management of mine waste, that mine waste or constituents remain at the mine waste unit and, if applicable, that land use is restricted.

7. Post-Closure Certification

a. After completion of postclosure maintenance for the mine waste unit, the permittee shall submit certification to the Board verifying completion of postclosure maintenance. All inspection records and reports pertaining to certification shall be submitted to the Board.

b. The certification shall be based on a review of the mine waste unit by a qualified professional approved by the Board and executed by a responsible officer of the applicant, along with video coverage of the site.

c. Approval of certification of the completion of post-closure maintenance of a waste unit by the Board does not release the permittee from any subsequent corrective action requirements or other legal responsibility.

SUBCHAPTER 6. ADMINISTRATION AND ENFORCEMENT

Section 36. Applicability of Subchapter

This subchapter applies to subchapters 1-6 of this Ordinance.

Section 37. Authority

This Ordinance is adopted pursuant to the Home Rule Power of Article VIII, Part 2, of the Constitution of the State of Maine, the laws of the United States of America, and the laws of the State of Maine, including, but not limited to, 30-A M.R.S.A. Section 3001.

When a mining project in a neighboring municipality actively enters the pre-application process with the concerned state agency and/or host municipality and a portion of the Town of Union falls within the project vicinity, the Union Board of Selectmen, with advice and consent of the Planning Board, shall determine whether the project may materially affect the Town of Union. If so, the Board of Selectmen, with advice and consent of the Planning Board, shall consider appropriate responses, including application for intervenor status if warranted. The Board shall represent the interests of public safety,

health, and welfare of all Union citizens and their environment in all pertinent phases of the mining project's development.

Section 38. Applicability of Ordinance

This Ordinance applies to all persons conducting activities in the Town of Union which are regulated by this Ordinance.

Section 39. Severability

If any provision of this Ordinance or the application thereof to any person or circumstance is held void or invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect in whole or in part without the invalid provision or application and to this end each provision of this Ordinance is declared to be severable and independent. It is the intent of the Town of Union that each and every part, clause, paragraph, section, and subsection of this Ordinance be given effect to the degree possible.

Section 40. Effective Date

This Ordinance shall be effective upon enactment. It shall apply immediately to all activities regulated by this Ordinance. Applicants in the permitting process on the state level at the time of enactment will be required to comply with all portions of this Ordinance.

Section 41. Savings Clause

Nothing in this Ordinance is intended, nor shall be construed to limit, impair, abridge, create, enlarge, or otherwise affect, substantively or procedurally, the right of a person to damages or other relief on account of injury to persons or property due to any violation of this Ordinance or to activity subject to this Ordinance and to maintain any action or other appropriate procedure therefore; nor to so affect the powers of the State of Maine to initiate, prosecute, and maintain actions to abate public nuisances.

Nothing in this Ordinance is intended, nor shall be construed to limit, impair, or abridge substantively or procedurally the powers of the Town of Union under state or common law to protect general health, safety, and welfare by initiating, prosecuting, and maintaining actions concerning activities not in violation of this Ordinance.

Section 42. Permit Applications

A. The Board may specify the form in which a permit application or other information is provided, as it deems necessary on a case-by-case basis. The applicant shall provide sufficient information as the Board deems necessary or desirable in order to process the permit application in accordance with the provisions of this Ordinance.

B. At the pre-application conference (Section 7(B)(2)), the Board will determine all permits required by the Town and the order in which permit applications are to be submitted.

C. The applicant shall as part of the application process submit to the Board copies of the most recent federal and state permits, approvals, licenses, including renewals, modifications, or extensions thereto, regulating an activity for which a permit is sought under this Ordinance.

If the Town permitting process is conducted concurrent with state or federal permitting, this requirement will be waived until such federal or state permits are obtained by the applicant. However, the final Town permit will not become effective until all applicable state and federal permits have been received.

D. The applicant shall have a continuing duty to provide copies of all renewed or modified federal and state permits, approvals, and licenses, as well as accompanying reports, applications, and records of data for activities which also require a permit under this Ordinance, and to inform the Board promptly of any modification, suspension, or revocation of any such federal and state permit approvals and licenses.

In addition, copies of all correspondence between either state or federal agencies and the applicant concerning activities for which a permit is required under this Ordinance shall be forwarded to the Board.

Section 43. Public Access to Information

Except as expressly made confidential by law, the Board shall make all documents and records made available to the public in accordance with the Maine Freedom of Access Law (1 M.R.S.A. Sec 401 et seq.). The Board shall also keep confidential those documents which may remain confidential pursuant to the Maine Freedom of Access Law. The Board shall make determinations of confidentiality and any person aggrieved by such determination may appeal to a court in accordance with state law. The Board shall withhold disclosure of such information pending a final judicial determination on any claim of confidentiality. A policy for inspecting and copying documents may be established by the Selectmen, including, but not limited to, a reasonable charge for copying costs.

Section 44. Fees To Be Paid By Applicant

A. Exploration Fee. An exploration fee of One Hundred Dollars (\$100.00) shall be paid by the applicant at the time of filing an exploration notification in accordance with Section 15 of this Ordinance.

B. Pre-Application Fee. A filing fee of One Thousand Dollars (\$1,000.00) shall be paid by the applicant prior to the pre-application conference.

C. Mining Commission Fee. Upon submission of the pre-application, the applicant shall submit \$25,000 per year through the completion of the licensing process to fund the activities of the Mining Commission. After licensing, Commission funding shall be subject to review annually.

D. Initial Permit Application Fee. An application fee for actual direct costs up to a maximum of Fifty Thousand Dollars (\$50,000.00) incurred by the Board or its representatives in reviewing and processing the proposed baseline monitoring plan, scoping document, EIR, and permit application shall be paid by the applicant. A maximum of two versions of each document requiring approval from the Board as stated in this Ordinance will be reviewed and processed by the Board as part of this fee. For any additional submissions which are required by virtue of an applicant's failure to comply with the requirements of this Ordinance, or failure to make modifications and corrections requested by the Board in the review of the first two submissions of each document, the Board shall assess actual and direct costs incurred and such assessment shall not be applied to the fifty thousand dollar maximum fee. It is, therefore, incumbent upon the applicant to make all modifications and corrections in an accurate, complete, and timely fashion.

E. Variance Request. If the applicant applies for a variance in accordance with Section 12, actual direct costs incurred by the Board or its representatives associated with the evaluation of the variance shall be paid by the applicant and such costs shall not be applied to the fifty thousand dollar maximum fee in Section 44(C).

F. Permit Renewal, Transfer, or Modification. Actual direct costs associated with reviewing and processing an application for permit renewal, permit transfer, or permit modification shall be paid by the applicant.

G. Corrective Action. Actual direct costs associated with the review, processing, and overseeing the implementation of a corrective action plan shall be paid by the applicant and such costs shall not be applied to the annual fee required in Section 44(G).

Sec 44/H-J
Sec 45
Sec 46/A

H. Annual Fee. An annual fee for actual direct costs necessary for yearly compliance review and monitoring of no less than One Thousand Dollars (\$1,000.00) per year and up to a maximum of Twenty Thousand Dollars (\$20,000.00) per year shall be paid by the applicant. The minimum annual fee shall be due on January 1 of each year.

Continuance of the permit requires that the annual fee and other applicable fees be paid as required.

I. For the purposes of this section, actual direct cost shall include engineering and other professional fees; personnel costs; travel; supplies; legal and computer; and other costs incurred in the performance of the Board's duties under the applicable provisions of this Ordinance.

J. Fees shall be paid within 30 days of invoice. If a plan, application, or other document is withdrawn, the applicant remains liable for all costs incurred prior to such withdrawal. Upon a failure to pay the fee when due, the Board may cease its review and processing of the plan, application, or other document and/or may take enforcement action to recover the fee.

Section 45. Computation and Enlargement of Time

In computing any period of time provided for in this Ordinance, the day of the act, event, or default after which the designated period begins to run is not to be included. The last day of the period so computed is to be included unless it is on a Saturday, Sunday, or legal holiday in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday.

When by this Ordinance or by order of the Board, an act is required to be done at or within a specified period of time, the Board may within its discretion at any time order the period enlarged for a reasonable period for good cause shown.

Section 46. Board Hearing Procedures

A. In conducting a public hearing as provided in this Ordinance, the Board may establish procedures for obtaining information prior to the hearing, identifying issues, stipulating certain facts or documents, identifying witnesses (expert or otherwise), conducting questioning of witnesses, consolidating the presentations by persons with similar interests, or any other matters which may expedite the orderly conduct and disposition of the proceedings.

B. Prior to any public hearing provided in this Ordinance, the Board shall provide public notice at least 10 days prior to such a hearing in the newspaper having the largest circulation in the county and in one newspaper with a circulation area of the entire State of Maine. A certificate of publication will be made a part of the record.

C. All hearings conducted pursuant to this Ordinance may be continued for reasonable cause and reconvened from time to time and from place to place by the Board as circumstances require.

Section 47. Appeals

Any person aggrieved by a final decision of the Board may seek judicial review in accordance with state law within 30 days of the final decision of the Board.

Section 48. Enforcement

A. Any violation of this Ordinance or a condition of any permit, approval, or Board order shall be deemed a nuisance.

B. It shall be the duty of the Town's Code Enforcement Officer to enforce provisions of this Ordinance. In the event that the Code Enforcement Officer has a good faith belief that a person is violating a provision of this Ordinance or a condition of any permit, approval, or Board order, he shall send written notice, describing the nature of the alleged violation to the Board, the Selectmen, and the alleged violator. Such notice may be hand-delivered or sent by first class mail, postage prepaid.

C. The Board shall hold a public hearing on the Code Enforcement Officer's complaint. Such hearing may not be less than fifteen (15) days, nor more than forty-five (45) days from the date of the Board's receipt of said complaint. Notice of the time, date, and place of the hearing shall be served to the alleged violator at least ten (10) days prior to the hearing. Such notice shall be given by one of these methods: delivery in hand by the Code Enforcement Officer; telecopier followed by mailing said notice to addressee by regular first class mail, postage prepaid; or by both regular first class mail, postage prepaid, and certified mail, return receipt requested. If the latter method is used, delivery shall be deemed to have occurred on the date indicated on the return receipt or three business days (inclusive of weekends and holidays) after the first class mailing, whichever occurs first.

D. If the Board finds, by preponderance of the evidence, that a violation has occurred, it shall provide an opportunity for public comment concerning the appropriate sanctions to be imposed. The sanctions are limited to a modification, suspension, or revocation of any permit issued to such violator by the Board.

E. The Selectmen may authorize the institution of legal proceedings in the name of the Town against any person violating any provision of this Ordinance, or any permit, approval, or Board order issued pursuant thereto. In any such action, the Town may seek an order enjoining those acts or practices which constitute such a violation; an order directing compliance with this Ordinance, or any permit, approval, or Board order issued pursuant thereto; an order assessing fines and penalties; or any combination thereof. The legal proceedings authorized by this subsection may be issued independently of or in conjunction with the provisions of subsections (B) - (D) of this section.

F. In any action to enforce any provisions of this Ordinance where the Town of Union prevails, the Town of Union shall be awarded reasonable attorney fees, expert witness fees, and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees, and costs provided by court rule.

Section 49. Penalties

A. Any person who violates any provision of this Ordinance or terms or conditions of any order, permit, approval, or final decision of the Board shall be subject to a civil penalty, due and payable to the Town of Union of not less than One Hundred Dollars (\$100.00) per day, and not more than Ten Thousand Dollars (\$10,000.00) per day, or twice the economic benefit resulting from the benefit, whichever is greater. If the same person has been convicted of a violation of this Ordinance within the previous two years, the maximum penalty is Twenty-Five Thousand Dollars (\$25,000) per day, or twice the economic benefit resulting from the violation, whichever is greater.

B. In setting penalties, the court shall consider, but is not limited to, the following:

1. Prior violations by the same person;
2. The degree of environmental damage that cannot be abated or corrected.
3. The extent to which the violation continued following an order to stop; and
4. The extent to which the Town of Union contributed to the violation by providing incorrect information or by failing to take timely action.

C. Payment of any penalty assessed shall be made within 30 days in cash or by certified check drawn on a recognized financial institution, made payable to the "Town of Union" in an amount equal to the full amount of the penalty.

D. If the maximum penalty amount of Section 49(A) of this Ordinance is held void or invalid, it is the intent of the Town of Union that the provisions of 30-A M.R.S.A. 4452, be given full force and effect, and that the maximum penalty amounts authorized by such provision apply to violations of any order, permit, approval, or final decision of the Mining Commission, or any provision of this Ordinance.

Section 50. Mining Commission

A. Composition. The Mining Commission shall consist of five (5) members. Members of the Mining Commission shall be residents of the Town of Union and the State of Maine, at least eighteen (18) years of age, and citizens of the United States at all times during their terms, and shall neither be officers nor employees of the Town of Union or any of its boards agencies, or departments. If any member misses three (3) or more consecutive meetings of the Mining Commission, then it may be cause for removal of such member.

B. Appointment. The members of the Mining Commission shall be appointed by the Board of Selectmen. The Town Manager or any individual selectman only shall have the authority and power to nominate one or more individuals for consideration of the Board of Selectmen for appointment to the Mining Commission. At least thirty (30) days prior to a decision on nominees by the Board of Selectmen, the names of all nominations shall be posted by the Town Clerk in one or more conspicuous public places in the Town of Union and notice shall be published once in a newspaper having a general circulation in the Town of Union. The Board of Selectmen may then, in its sole discretion, hold a public hearing on the appointment of any nominee for the Mining Commission. In such case, the time period within which the Board of Selectmen shall decide upon the nomination shall be extended by up to thirty (30) day period as the Board of Selectmen shall determine.

C. Terms of Office. Except for Initial Appointees as specified below, the term of each member shall be five (5) years. Members shall serve until their successors are duly appointed, qualified, and assume their duties. Initially, and as provided in Section 50(C), one member shall serve for one (1) year, one member for two (2) years, one member for three (3) years, one member for four (4) years, and one member for five (5) years. The Board of Selectmen shall determine which Initial Appointees shall serve for which number of years.

D. Vacancies. The Board of Selectmen may declare a vacancy on the Mining Commission upon the nonacceptance, resignation, death, removal, permanent disability, or incompetency of any member, relocation of a member's place of residence, or failure of any person to qualify for office. In such circumstances, the Board of Selectmen shall fill all positions of members.

E. Removal. The Board of Selectmen may remove any member of the Mining Commission for cause, after notice and hearing. The term "cause" shall mean conduct or conflict affecting the ability and fitness of the member to perform his duties. The notice provided hereunder shall be in writing and shall state the reasons for the proposed removal and inform the member of his right to a hearing before the Board of Selectmen within thirty (30) days of receipt of the notice. This hearing may be held in executive session if the requirements of 1 M.R.S.A. 405, as amended by PL 1987, c. 769, Sec. 1, are met or, upon request by the member to be removed, an open meeting may be held in accordance with 1 M.R.S.A. 401 et seq. and this Ordinance.

F. Compensation. All members of the Mining Commission shall receive compensation at a fair hourly rate to be set by the Board of Selectmen.

G. Officers.

1. Election of Officers. Upon pre-application, the Selectmen of the Town of Union will elect a five-member Mining Commission. Once approval of this application has occurred, the Mining Commission will be activated within ninety (90) days. The Mining Commission shall, by majority vote, elect a Chairperson, Vice Chairperson, and Secretary. The Chairperson, Vice Chairperson, and Secretary shall each serve a term of one (1) year or until his or her successor is duly elected by the Mining Commission. The Chairperson, Vice Chairperson, and Secretary may serve successive terms, if so elected.

2. Chairperson. The Chairperson shall preside at all meetings, if present; shall prepare the agenda; shall call special meetings and workshops when necessary; shall transmit reports, plans, and recommendations of the Mining Commission to the appropriate governing authority; and shall fulfill all the customary functions of his or her office.

3. Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson shall act as Chairperson and shall have all the powers of Chairperson.

4. Secretary. The Secretary, or any other person so employed or so designated by the Mining Commission, shall assist the Chairperson in preparing the agenda for Mining Commission meetings and proceedings; send out notices for meetings, public hearings, and other proceedings of the Mining Commission; record, maintain, and show the vote of each member on every question in which a formal recorded vote is made under the procedure of the Commission or his or her absence or failure to vote; and shall maintain a permanent record of all correspondence, findings, resolutions, and determinations of the Mining Commission. All records shall be deemed public and may be inspected at reasonable times. The Secretary shall also make such certifications of Mining Commission action as may be required from time to time.

H. Meetings, Quorum, Agenda

1. Meetings. Regular meetings of the Mining Commission shall be held at least monthly, or as provided by rule of the Mining Commission, unless excused by the Chairperson. Special meetings may be called by the Chairperson, the Chairperson designated for a particular matter, or any four (4) members of the Mining Commission. The Mining Commission may hold executive sessions as provided in the Maine Freedom of Access Act, 1 M.R.S.A. 401 et seq., otherwise all meetings, hearings, proceedings, and deliberations of the Mining Commission shall be open to the public in accordance with the Maine Freedom of Access Act, 1 M.R.S.A. 401 et seq. Workshops may be called by the Chairperson or members designated by the Chairperson for the presentation of information. Workshops shall be informational only, shall not be used by the Mining Commission for the weighing of positions or reasons for or against a proposition, and shall not be used by the Mining Commission for the formulation of formal decisions on any matter. Any member of the Mining Commission may voluntarily disqualify himself or herself from voting on a particular matter for any reason, including conflict. In addition, a member shall be disqualified from voting on a particular matter for any reason by a majority vote of the members present and voting, except the member whose disqualification is at issue shall not vote on his or her own disqualification.

2. Quorum. No business will be transacted by the Mining Commission without a quorum. A quorum shall consist of three (3) members. The Mining Commission shall act by majority vote, calculated on the basis of the number of members present and voting. If less than a quorum is present, the meeting may be adjourned for a period not exceeding three (3) weeks at any one time.

3. Agenda. No item of business or plan shall be placed on the Mining Commission agenda for any meeting unless such item or plan shall have been submitted to the Mining Commission not less than ten (10) days prior to the date of a meeting or other proceeding, provided, however, that the Mining Commission, may, upon request or on its own motion, waive the 10-day advance submission requirement. The Chairperson shall determine the agenda in such a manner as to facilitate the execution of the duties of the Mining Commission.

Town of Union

MOBILE HOME PARK ORDINANCE

ARTICLE I - CONTENTS OF THIS ORDINANCE

<u>ssl</u>	<u>Contents</u>	<u>Page</u>
ARTICLE I	CONTENTS OF THIS ORDINANCE	1
ARTICLE II	TITLE & PURPOSE	1
ARTICLE III	AUTHORITY, APPLICABILITY & ADMINISTRATION	1
ARTICLE IV	SEVERABILITY & CONFLICT	2
ARTICLE V	AMENDMENT OF THIS ORDINANCE	2
ARTICLE VI	PRE-APPLICATION	3
ARTICLE VII	MOBILE HOME PARK REVIEW	4
ARTICLE VIII	MINIMUM DESIGN & PERFORMANCE STANDARDS	12
ARTICLE IX	ENFORCEMENT	22
ARTICLE X	PERFORMANCE GUARANTEES	24
ARTICLE XI	DEFINITIONS	26
	INDEX OF THIS ORDINANCE	29

ARTICLE II - TITLE & PURPOSE

ssl Title

This Ordinance shall be known and may be cited as *the Town of Union, Maine Mobile Home Park Ordinance* and will be referred to herein as "this Ordinance".

ss2 Purpose

The purpose of this Ordinance is to ensure the comfort, convenience, safety, health and welfare of the people of the Town of Union, Maine, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving Mobile Home Parks within the Town of Union, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed Mobile Home Park will meet the following criteria from Title 30A, M.R.S.A. SS4404.

ARTICLE III - AUTHORITY, APPLICABILITY & ADMINISTRATION

ssl Authority

This Ordinance is enacted pursuant to Home Rule Powers as provided for in Article 8, Pt.2,SS1 of the Maine State Constitution and under the authority granted to the Town by the statutes of the State of Maine Title 30-A, M.R.S.A. 3001, and in accordance with the provisions of Title 30-A, M.R.S.A., Section 4358, SS3.

(Article III cont.)

ss2 Administration & Enforcement

The provisions of this Ordinance shall apply to all proposed Mobile Home Parks within the boundaries and shall be administered by the Town of Union Planning Board and enforced by the Town of Union Code Enforcement Officer.

ss3 Effective Date

This Ordinance shall be effective upon its adoption by a majority vote of the eligible voters of the Town of Union, Maine at the Town Meeting.

ss4 Applicability to this Ordinance

- A. The provisions of this Ordinance shall apply to all proposed mobile home parks within the boundaries of the Town of Union, Maine. Mobile home subdivisions as expressly defined in Article XI, SS3 of this Ordinance are not governed by this Ordinance, except in the case where the individual owners form a corporate body that owns and governs said mobile home lots in common.
- B. An approved mobile home park plan shall be necessary under the terms of this Ordinance, prior to the establishment or expansion of a mobile home park, and shall consist of a site plan as required by Article VII of this Ordinance, including all attachments, signed by the Planning Board, and may include any conditions attached by the Planning Board.
- C. An approved mobile home park plan shall not exempt an applicant from meeting other applicable local, state or federal requirements.

ss5 Fees

The Board of Selectmen for the Town of Union shall annually set Mobile Home Park fees.

ARTICLE IV - SEVERABILITY & CONFLICT

ss1 Severability

Should any provision of this Ordinance be declared by the courts of the State of Maine or by the courts of the United States to be invalid, such decisions shall not invalidate any other provision of this Ordinance.

ss2 Conflict with other Ordinance

This Ordinance shall in no way impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law. Where this Ordinance imposes a greater restriction upon the use of the land, buildings, or structures, the provisions of this Ordinance shall prevail.

ARTICLE V - AMENDMENT OF THIS ORDINANCE

ss1 Initiation of Amendment

An amendment to this Ordinance may be initiated by:

(Article V Sec. 1 Cont.)

- A. The Planning Board provided that a majority of the Board has so voted; or
- B. Request of the Selectmen to the Planning Board; or
- C. Written petition to the Selectmen bearing signatures of registered voters of the Town of Union, Maine numbering at least ten percent of the number who voted in the last gubernatorial election.

ss2 Adoption of Amendment

All proposed amendments to this Ordinance shall be referred to the Planning Board for their recommendation. The Planning Board may hold a public hearing on any proposed amendment. Within thirty days of receiving a proposed amendment, the Planning Board shall make known their recommendation to the Selectmen and to the Town. After receiving the recommendation of the Planning Board, the amendment shall be voted on by the voters of the Town of Union, Maine at a Town Meeting, a majority vote being required for adoption.

ARTICLE VI - PRE-APPLICATION

ssl PRE-APPLICATION PROCEDURE (STEP ONE)

A. PRE-APPLICATION MEETING

1. Prior to formal submission of a Mobile Home Park application, the applicant shall appear informally to discuss the proposed Mobile Home Park at the regular meeting of the Planning Board.
2. At this meeting the applicant shall submit the Pre-Application Sketch Plan. This sketch may be a free hand drawing based on the Town Tax Map.
3. On-site Inspection: the Planning Board Chair shall schedule an on-site inspection of the land to be subdivided at the pre-application meeting. The date set shall be scheduled so that at least a majority of the board members and the applicant will be in attendance. In addition the chair may also request that the code enforcement officer attend the on-site inspection. The Board or its designated agent shall, at its earliest convenience and normally within thirty days, make an on-site inspection. If any conditions such as snow exist to prevent an adequate inspection in the opinion of the Board, the applicant shall be notified in writing, and any time limits for review shall be extended accordingly until an on-site inspection can be made. The applicant shall place "flagging" at the center line of any proposed roads prior to the on-site inspection.
4. Purpose of Pre-application Meeting and On-site Inspection: The purpose of both the pre-application meeting and on-site inspection is to give the Planning Board a clear understanding of what is proposed. Subsequent filing of a formal Mobile Home Park Application must be within twelve (12) months of the pre-application meeting.
5. Applicants Rights not Vested: Submissions and attendance at the pre-application meeting shall create no binding commitments between the applicant and the Planning Board. It shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., ss302.

ARTICLE VII - MOBILE HOME PARK REVIEW

ss1 Applicability and Review of Article VII

The provisions of this article shall be used for Mobile Home Park Subdivision Review.

- A. Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to 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 health and waste resource regulations;
- B. Has sufficient potable water available for the reasonable foreseeable needs of the Mobile Home Park;
- C. Will not cause an 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 may result;
- 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 solid and sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
- H. Is in conformance with a duly adopted Mobile Home Park Ordinance, Comprehensive Plan, Development Plan or Land Use Plan, if any;
- I. The applicant has adequate financial and technical capacity to meet the above stated standards;
- J. Will not be situated, in whole or in part, within the Shoreland District;
- K. The proposed Mobile Home Park will not, alone or in conjunction with existing activities, adversely effect the quality or quantity of ground water;
- L. Will not be situated in a flood-prone area as described and based on the Federal Emergency Management Agency's Flood Boundary and Flood-way Maps and Insurance Rate Maps as well as the USDA Floodplain Management Study.

ss2 PRELIMINARY PLAN PROCEDURE (STEP TWO)

A. PROCEDURE

- 1. Within twelve (12) months of the pre-application meeting the applicant shall submit a formal application for approval of a preliminary plan with proof of

(Article VII, Sec. 2, A, 1 cont.)

- the appropriate fee paid. If an application is not submitted within this period of time the Planning Board shall require a new pre-application meeting.
2. Upon receiving an application for preliminary plan approval, at a regularly scheduled Planning Board meeting, the Planning Board shall issue the applicant a dated receipt.
 3. Within thirty (30) days from the receipt of an application by the Planning Board at a regularly scheduled Planning Board shall notify the applicant in writing that the application is either complete or incomplete. If the application is incomplete the Planning Board shall notify the applicant, in writing, of the specific steps necessary to make a complete application.
 4. The applicant shall be required to notify by certified mail (return receipt requested) all property owners within 500 feet of the proposed subdivision, specifying the location and a general description of the project.
 5. A public hearing shall be held within thirty (30) days of a complete preliminary plan application. The Planning Board shall give notice of the date, time and place of such a hearing to be published twice in a local newspaper with the date of the first publication at least seven (7) days prior to the hearing.
 6. Within thirty (30) days after a public hearing, the Planning Board shall either approve, approve with conditions or disapprove the preliminary plan. In issuing its decision the Planning Board shall state in writing the conditions of such approval, specifically:
 - a) The changes it will require in the final plan.
 - b) The character and extent of the required improvements for which waivers have been requested and which, in the opinion of the Planning Board, may be waived without jeopardy to the public health, safety and general welfare.
 - c) The amount of the performance guarantee that the Planning Board will require for Final Plan Approval.
 7. Approval of a preliminary plan shall not constitute approval of a Final Plan, rather it shall be viewed as a guide in the preparation of the Final Plan.
 8. Prior to the approval of a Final Plan, the Planning Board may require additional changes in the Final Plan as the result of substantial new information.
 9. The Planning Board may request an additional site inspection to view the location of lot markers, test pits and proposed roads prior to Final Plan Approval.
 10. The Applicant shall notify the Road Commissioner and the Fire Chief of the proposed Mobile Home Park including the number of lots proposed and length of roadways. The Planning Board shall require comments from these officials (to be obtained by the applicant) in writing on the facilities to service the proposed mobile home park.

(Article VII cont'.)

B. PRELIMINARY PLAN SUBMISSION REQUIREMENTS

The complete preliminary plan submission requirements shall consist of the following information:

1. The Mobile Home Park Application: The applicant shall complete and sign ten(10)copies of the Mobile Home Park Application.
2. Fee: The applicant shall submit proof of the appropriate preliminary plan fees paid.
3. Location Map: The preliminary plan shall be accompanied by ten(10)copies of a location map showing the relationship of the proposed Mobile Home Park to adjacent properties and the surrounding area. The location map shall show all the area within five hundred(500)feet of any property line of the proposed Mobile Home Park. The location map shall show:
 - a) Names of existing and proposed roads.
 - b) Boundaries of land use districts, where applicable.
 - c) Names of all owners of property abutting or directly across a road from the proposed Mobile Home Park.
 - d. The outline of the proposed Mobile Home Park together with its probable access and an indication of the future street system.
4. PRELIMINARY PLAT PLAN: the preliminary plan shall be submitted in three(3) copies which may be printed or reproduced on paper drawn to a scale of not more than one hundred(100)feet to the inch. Where practical the sheet size of the drawings shall be 24"x36"(inches)or as required by the Knox County Registry of Deeds. In addition, ten(10)copies of a plan reduced to a size of 11"x17"(inches) shall be submitted. The following information shall either be shown on the preliminary plan or accompany the application for preliminary approval.
 - A. Proposed name of Mobile Home Park along with name, address and telephone number of the applicant, and the name, address and telephone number of the owner of the property, if different from the applicant.
 - B. The date the plan was prepared with the name, address and telephone number of the person or company that prepared such.
 - C. Scale of the drawings submitted and compass rose; all dimensions to be marked in feet or decimals of a foot.
 - D. Contour lines showing elevations in relation to mean sea level at appropriate intervals to show the effect on the land of existing and proposed grades for areas proposed to be excavated or filled, if required by the Planning Board.
 - E. Boundaries of the tract of land showing lot lines, abutting lots, districts within five hundred(500)feet as defined by the Land Use Ordinance and illustrated on the Town of Union Tax Assessor's Maps, with total acreage

(Article VII, Sec.2,B,4,E cont.)

indicated and the Town of Union Assessor's Map and Lot number(s). The Planning Board may require a survey by a licensed surveyor.

- F. Verification of right, title or interest the applicant has in the property.
- G. A copy of the deed or deeds of the property together with copies of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- H. Location of existing and proposed mobile homes and other structures.
- I. Location of buildings or other structures on abutting properties within five hundred (500) feet of the property lines of the proposed park including names and addresses.
- J. Location of existing public and private streets, roadways and rights-of-way.
- K. Location of proposed access road to the mobile home park from public streets or roadways.
- L. The following disclaimers shall be attached to the plan to be recorded at the Registry of Deeds and filed with the municipality as well as any other notes or conditions of approval:
 - 1) "The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred."
 - 2) "No dwelling unit other than a manufactured housing unit shall be located within the park."

To any plan showing existing or proposed private roads:

- 3) "All roads in this Mobile Home Park so marked shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Union, Maine."
- M. An estimate of the average daily traffic projected to be generated by the park and a traffic impact analysis, if required, as stated by Article VIII,ss6-F of this Ordinance.
- N. Location and arrangement of proposed off-street parking and loading areas and their appurtenant drives and maneuvering areas.
- O. Location of existing and proposed pedestrian walkways.
- P. Location of existing and proposed utilities and easements therefore, including sanitary sewerage, water supply, and electricity.
- Q. Location, intensity, type, size and direction of all outdoor lighting.
- R. Location and size of signs and all permanent outdoor fixtures.

(Article VII, Sec.2,B,4 cont'.)

- S. Location and proposed use of areas proposed for outdoor recreation or for reserved open space as per Article VIII, ss5 of this Ordinance.
- T. Location and type of existing and proposed fences, hedges and other screening.
- U. Location of existing natural drainage ways and proposed storm drainage facilities, including dimensions of culverts, pipes, etc.; Mobile Home Parks shall not be allowed in any area delineated as being within the One Hundred (100) year flood plain.
- V. An analysis of ground water impact as required by Article VIII, ss7-A of this Ordinance.
- W. Information about Soils Conditions on the site of the proposed Mobile Home Park. For subsurface sewage disposal proposed, the information shall include evidence of soil suitability according to the standards established in Article VIII, ss11 of this Ordinance. The Site Plan shall show the location of soil test areas and natural wet areas.
- X. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revision of the *Environmental Quality Handbook* published by the United States Soil Conservation Service.
- Y. A "Preservation of Natural and Historic Features" map as required by Article VIII, ss9 of this Ordinance.
- Z. For projects within lake watershed districts a phosphorus control analysis and plan shall be submitted for review and approval.

ss3 FINAL PLAN REVIEW PROCEDURES (STEP THREE)

A. PROCEDURE

1. Within six (6) months after approval of a preliminary plan, the applicant shall submit the Final Plat and supporting documentation for Final Plan Review. If the Final Plan is not submitted to the Planning Board within this period, the Planning Board may refuse, without prejudice, to act on the Final Plan and may require re-submission of the preliminary plan. The applicant shall request to be placed on the Planning Board agenda at least twenty-one (21) calendar days prior to the regularly scheduled meeting at which he wishes to be heard.
2. Fee: The applicant shall submit proof of the appropriate Final Plan fees paid.
3. Prior to submittal of the Final Plan application, the following approvals shall be obtained, in writing, where appropriate.
 - a) Maine Department of Human Services, if the applicant proposes to provide a central water supply system.
 - b) The servicing sewer district, if an existing public sewage disposal system is to be used.

(Article VII, Sec.3,A cont'.)

- c) Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system is to be utilized.
 - d) Maine Manufactured Housing Board (if applicable).
 - e) Department of Environmental Protection (if applicable).
- 4. The applicant, or his/her duly authorized representative, shall attend a regularly scheduled meeting of the Planning Board to discuss the Final Plan.
 - 5. Upon determination that a complete application has been submitted for review, the Planning Board shall issue a dated receipt to the applicant.

B. SUBMISSION REQUIREMENTS - FINAL PLAN

The Final Plan shall be submitted in two (2) reproducible, stable-based transparent originals, and three (3) copies. After Planning Board approval, one original will be recorded at the registry of deeds and one filed at the Town Office. The plans shall be drawn to a scale of not more than one hundred (100) feet to the inch. Where practical the sheet size of the drawings shall be 24"x36"(inches). Space shall be reserved on the drawing for the conditions the Planning Board may impose, and the endorsement of the Planning Board. In addition, seven (7) copies of the Final Plan reduced to a size of 11"x17" (inches) shall be submitted. The application for Final Plan approval shall include the following:

- 1. All of the information presented on the preliminary plan and location map and any amendments thereto as required by the Planning Board.
- 2. The name, registration number and seal of the and surveyor, architect, engineer, or planning consultant who prepared the plan.
- 3. Road names, pedestrian ways, lot easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership.
- 4. Sufficient data acceptable to the Code Enforcement Officer to readily determine the location, bearing and length of every street line, lot line, easement, and boundary line and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.
- 5. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract.
- 6. Construction drawings showing a cross section of proposed roads and storm drains shall be included as required by the Planning Board.
- 7. Lots and blocks within the subdivision numbered in accordance with local practice.
- 8. Permanent monuments at all outside corners of the subdivision tract and referenced in the Final Plan. In addition, the outside perimeter of the

(Article VII, Sec. 3, B cont'.)

property to be subdivided is to be clearly marked for complete identification of land boundaries.

9. A performance bond or guarantee in a form and amount meeting the requirements of Article X to secure the completion of all improvements required by the Planning Board, and written evidence that the Board of Selectmen has approved the bond or guarantee.

C. FINAL PLAN APPROVAL AND FILING

1. No Final Plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved plan.
2. Upon findings of fact and determination that all standards in 30A M.R.S.A., ss4404 and all pertinent regulations have been met, and upon voting to approve the Mobile Home Park Plan, the Planning Board shall sign the Final Plan. The Planning Board shall specify in writing its findings of facts and reason for any conditions or denial. Any Mobile Home Park Plan not recorded in the Registry of Deeds, by the applicant, within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall be deemed void and shall require re-submission, review and approval.
3. At the time the Planning Board grants Final Plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to insure the orderly development of the plan.
4. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted to, and the Planning Board approves any modifications. Plan revisions after approval shall be made as further provided for in Article IX, ss3 of this Ordinance. The Planning Board shall make findings that the revised plan meets the standards of 30A M.R.S.A. ss4404, and these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Code Enforcement Officer shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
5. The approval by the Planning Board of a Mobile Home Park plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

(Article VII, Sec.3,C,6 cont'.)

6. Failure to commence construction of required roads within the Mobile Home Park within one (1) year of the date of approval and signing of the Plan or failure to complete work within two (2) years of the date of approval shall render the Plan null and void and a new application must be made. Upon determining that a Mobile Home Park's approval has expired under this paragraph, the Code Enforcement Officer shall have a notice placed in the Registry of Deeds to that effect. Construction of the proposed Mobile Home Park is subject to the provisions of Article IX,ss2-D of this Ordinance.
7. Limitation on Units
After the effective date of this Ordinance as stipulated in Article III, ss3 of this Ordinance, mobile and modular homes as defined by Article XI, ss3 of this Ordinance, and mobile homes meeting the safety standards contained in Article VIII, ss10 of this Ordinance, may be located in a mobile home park sited within the Town of Union, Maine. Excepting any units legally sited as of the effective date of this Ordinance as stipulated in Article III, ss3 of this Ordinance, no manufactured housing unit which fails to meet the definition of mobile or modular home contained in Article XI, ss3 of this Ordinance, or which otherwise fails to meet the safety standards contained in Article VIII, ss10 of this Ordinance, travel trailers, units not suitable for year-round occupancy, or site built home shall be located in a mobile home park situated within the Town of Union, Maine.
8. Expert Witnesses
The Planning Board shall retain the right to call, cite, reference, examine, cross-examine, quote, or question any authority, expert, professional, or experienced individual of their choice within reason whom, in their sole opinion, may have pertinent information regarding the proposed Mobile Home Park, at any time during the approval process or during the construction process. All costs of such, within reason, shall be borne by the developer of the proposed Mobile Home Park, with a maximum dollar amount to be agreed upon between the developer and the Planning Board. Consultation shall be sought first from sources without fees, and shall be agreed upon between the Planning Board and the developer.

ss4 WAIVER

A. Waiver of Submission Requirements

Where the Planning Board makes written Findings of Fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements to permit a more practical development, provided that the public health, safety and welfare are protected. The waivers should not have the effect of nullifying the intent purpose of the comprehensive plan or any ordinance or regulation.

B. Waivers Conditionally Granted

In granting waivers to any of the provisions of these regulations, the Planning Board shall require such conditions as will assure that the objectives of these regulations are met. When the Planning Board grants a waiver to the above standards, it shall indicate such waiver on the Final Plan approval.

(Article VII cont'.)

waiver to the above standards, it shall indicate such waiver on the Final Plan approval.

ss5 APPEALS

Any aggrieved party having proper standing may within thirty (30) days appeal any decision of the Planning Board under these regulations to the Superior Court of Knox County.

ARTICLE VIII - MINIMUM DESIGN & PERFORMANCE STANDARDS

ss1 General Requirements

- A. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations and shall be in conformity with the Land Use Ordinance of the Town of Union, Maine. Where the provisions of this article conflict with specific provisions of the Subdivision Ordinance, or of the Land Use Ordinance, the provisions of this article shall prevail.
- B. 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 developer shall demonstrate that the development standards described are met.
- C. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all infrastructure, structures and their sites, including snow removal from all park roads and walkways and sanding where required. Park management shall conform to Maine State Laws. Compliance with this Ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state and federal codes and regulations.
- D. No manufactured housing may be sited within the Town of Union, Maine without either a bill of sale indicating the name, address, dealer registration number and sales tax certificate number of the person who sold or provided the manufactured housing to the buyer locating such housing in this Town; or evidence of certification of payment of the sales tax in accordance with Title 36, M.R.S.A., Sec. 1760, ss40 and Title 36, M.R.S.A., Sec.1952-B. A copy of each document required for each housing unit shall be filed with the Code Enforcement Officer prior to the siting of said unit.
- E. Mobile Home Parks shall only be allowed in the Rural District areas designated on the Town of Union Land Use Zoning Map.

ss2 Lot Area, Lot Width and Lot Coverage Requirements

Lots in a mobile home park shall meet the following lot area and lot width requirements.

- A. Lots served by public sewer:
 - Min. lot area.....6,500 square feet
 - Min. lot width.....50 feet
- B. Lots served by individual subsurface waste water disposal systems:
 - Min. lot area.....20,000 square feet
 - Min. lot width.....100 feet

(Article VIII, Sec.2 cont'.)

- C. Lots served by a central sewage system approved by the Maine Department of Human Services:
Min. lot area.....12,000 square feet
Min. lot width.....75 feet
- D. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.
- E. The overall density of the Mobile Home Park shall be the combined area of its mobile home lots plus the sum of the area required for road rights-of-way, the area required for buffer strips(if any), the open space area as defined in Article VIII, ss5-A of this Ordinance(if the park is served by a public sewer).
- F. Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the manufactured home.
- G. All buildings on the mobile home lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.

ss3 Unit Setback Requirements

- A. The following minimum unit setbacks shall apply to all homes and accessory buildings located in the Mobile Home Park:

	Lots served by public sewer	All other lots
Front setback	20 feet	20 feet
Side setback	10 feet	20 feet
Rear setback	10 feet	10 feet

- B. Where bordering a public road, all structures shall meet the minimum setbacks of the Land Use Ordinance.

ss4 Buffering & Screening

- A. A mobile home park shall have a buffer strip not less than 50 feet in width of which 25 feet shall remain as natural screening if, the Mobile Home Park's residential density is at least two-times greater than:
1. The density of residential development on immediately adjacent parcels of land; or
 2. If the immediately adjacent parcels of land are undeveloped, the maximum net residential density permitted by applicable municipal ordinances or state law. No structures or roads shall be located in the buffer strip.

ss5 Open Space Reservation

(Article VIII, ss5 cont'.)

For mobile home parks served by a public sewer:

- A. An area no less than 10% of the total area of the Mobile Home Park lots shall be reserved as open space. The area reserved as open space shall be maintained and used for its stated purpose. Parking space, driveways and streets and buffer areas are not considered useable open space but community recreation buildings, pools and courts are considered as open space.
- B. At least 50% of the reserved open space shall have slopes less than 5%, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park.
- C. All developed open space shall be designed and landscaped for the use and enjoyment of the park residents and shall be maintained for their long term use. Plans for these areas shall be submitted in the approval application.
- D. To the maximum extent possible, undeveloped open space shall be left in its natural state. Improvements to make trails for walking and jogging or to make picnic areas are permitted. Plans for these areas shall be submitted in the approval application.
- E. The developer shall submit as part of the application, a copy of that portion of the proposed Mobile Home Park rules and a plan which specify how the open space is to be used and maintained and what conditions are to apply to its use. The plan shall specify the areas to be dedicated to open space, recreation, and storage.
- F. Reserved open space shall not be used for future mobile home lots.

ss6 Road Design, Circulation, Traffic Impacts and Parking

Roads within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- A. Roads which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for roads as detailed in Sec.II of the Subdivision Ordinance.
- B. Roads which the applicant proposes to remain private ways shall meet the following minimum design standards.
 - 1. For roads:
 - i. Minimum right-of-way width: 23 feet
 - ii. Minimum width of traveled way: 20 feet
 - 2. Cul-de-sac turnarounds shall have a minimum property line radii of 66 feet and 55 foot outer edge of travel way radii, exclusive of any parking areas.
 - 3. All roads shall be built to acceptable engineering standards and with a professional engineer's seal as required by the Manufactured Housing Board.
 - 4. The park owner or management shall be responsible for snow removal and sanding on all park roads.

(Article VIII, Sec.6 cont'.)

- C. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two (2) road connections with existing public roads. Any road within a park with an average daily traffic of 200 trips per day or more, shall have at least two (2) roads shown on an approved subdivision plan.
- D. No individual lot within a park shall have direct vehicular access onto an existing public road.
- E. The intersection of any road within a park and an existing public road shall meet the following standards:
 - 1. The desired angle of intersection shall be 90 . The minimum angle of intersection shall be 75 .
 - 2. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 - 3. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. 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 1/2 feet.
 - 4. The center line of any road within a park intersecting an existing public road shall be no less than 125 feet from the center line of any other road intersecting that public road.
 - 5. No connection of a road within a mobile home park shall be made with any public road unless the public road meets or exceeds the standards for roads in Sec.II of the Subdivision Ordinance.
 - 6. Where necessary to safeguard against hazards to traffic, pedestrians and/or to avoid traffic congestion, turning lanes, traffic directional islands, frontage roads, and traffic controls shall be provided on public roads at the developer's expense.
- F. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the most current edition of the Trip Generation Manual published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a professional engineer registered in the State of Maine with experience in transportation engineering.
- G. Each lot shall be legibly marked for identification, and easily accessible to emergency vehicles, permitting fire apparatus and emergency vehicles to approach within 100 feet.
- H. Curvelinear roads shall be utilized within the park wherever possible. No road within the park shall be more than 300 feet long without a curve or bend.

(Article VIII, Sec. 6 cont'.)

- I. All roads within the park and connecting with roads outside the park shall be marked with signs consistent with the Town's current system designating their name, appropriate safety and stop signs, and with appropriate lines and markings painted on them, all approved by the Road Commissioner. Proposed road names shall be approved by the Planning Board.
- J. On-street parking shall be prohibited within the park unless an eight(8) foot parking land is provided in addition to the road width requirements of Article VIII, ss6-B of this Ordinance, in which case on-street parking may be permitted on the side of the road where the parking lane is located.
- K. For each mobile home lot there shall be provided and maintained at least two(2) hard-surfaced off-street parking spaces. Each parking space shall contain a minimum of 200 square feet with minimum dimensions of 10 feet x 20 feet.

ss7 Ground Water Impacts

A. Assessment Submitted

Accompanying the application for approval of any mobile home park which is not served by public sewer shall be an analysis of the impacts of the proposed Mobile Home Park on ground water quality. The hydrogeological assessment shall be prepared by a certified geologist or professional engineer registered in the State of Maine, experienced in hydrology and 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 Mobile Home Park.
3. Drainage conditions throughout the Mobile Home Park.
4. Data on the existing ground water quality, either from test wells in the Mobile Home Park or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the Mobile Home Park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the Mobile Home Park, at the Mobile Home Park boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the Mobile Home Park and within 300 feet of the Mobile Home Park boundaries.

(Article VIII, Sec. 6 cont'.)

B. Standards for Acceptable Ground Water Impacts

1. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 2. No mobile home park shall increase any contaminant concentration in the ground water to more than one-half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
 3. If ground water contains contaminants in excess of the primary standards, and the Mobile Home Park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 4. If ground water contains contaminants in excess of the secondary standards, the Mobile Home Park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- C. 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 are recommended in the assessment, those standards shall be included as a note on the Plan.

ss8 Conversion

No development or subdivision which is approved under this Ordinance as a mobile home park may be converted to another use or individual lots sold without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements of the applicable district.

ss9 Preservation of Natural and Historic Features

The Planning Board shall require that the proposed park include a landscape and management plan that will show the preservation of historic or environmentally desirable areas or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable areas.

ss10 Safety Standards

The standards in Article VIII, sec. 10 shall apply to all manufactured housing built before June 15, 1976, or any manufactured housing not built according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located in a mobile home park in the Town of Union, Maine. The park owner shall have the burden of proving to the Code Enforcement Officer that these standards are met.

A. Exit Facilities - Exit Doors

1. Required egress doors shall not be located where a lockable interior door must be used in order to exit.

(Article VIII, Sec.10 cont'.)

2. Homes shall have a minimum of two(2) exterior doors not less than twelve(12) feet from each other as measured in any straight line direction regardless of the length of travel between doors. One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 feet.
3. All exterior swinging doors shall provide a minimum 28 inches wide by 74 inches high clear opening. All exterior sliding glass doors shall provide a minimum 28" wide by 72 inches high clear opening. Locks shall not require the use of a key for operation from the inside.

B. Exit Facilities - Egress Windows and Devices

Mobile homes shall have the following emergency egress facilities:

1. Every room designated expressly for sleeping purposes, unless it has an exit door, shall have at least one outside window or approved exit device. If an exit window or device is installed, it shall be listed in accordance with procedures and requirements of AAMA 1704-1985.
2. The bottom of the window opening shall not be more than 36 inches above the floor.
3. Locks, latches, operating handles, tabs and any other window, screen or storm window devices, which need to be operated in order to permit exiting, shall not be located in excess of 54 inches from the finished floor.

C. Interior Doors

Each interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button or other locking devices on the inside.

D. Fire Detection Equipment

1. At least one smoke detector(which may be a single station alarm device)shall be installed in the home in the following locations:
 - i. A smoke detector shall be installed on any wall in the hallway or space communicating with each bedroom area between the living area and the first bedroom door unless a door separates the living area from that bedroom area, in which case the detector shall be installed on the living area side as close to the door as practical. Homes having bedroom areas separated by any one or combination of communication areas such as kitchen, dining room, living room, or family room(but not a bathroom or utility room)shall have at least one detector protecting each bedroom area.

(Article VIII, Sec.10,D cont'.)

- ii. When located in hallways, the detector shall be between the return air intake and the living area.
 - iii. The smoke detector shall not be placed in a location which impairs its effectiveness.
 - iv. Smoke detectors shall be labeled as conforming with the requirements of Underwriter's Laboratory Standards No.217, Third Edition, 1985, as amended through October 8, 1985, for single and multiple station smoke detectors.
2. Each smoke detector shall be installed in accordance with its listing. The top of the detector shall be located on a wall four(4)inches to twelve (12)inches below the ceiling. However, when a detector is mounted on an interior wall below a sloping ceiling, it shall be located four(4)inches to twelve(12)inches below the intersection on the connecting exterior wall and the sloping ceiling (cathedral ceiling). The required detector(s) shall be attached to an electrical outlet box and the detector connected by permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the smoke detector between the over-current protection device protecting the branch circuit and the detector. The smoke detector shall not be placed on the same branch circuit or any circuit protected by a ground fault circuit interrupter.

E. Flame Spread

1. Ceiling interior finish shall not have a flame spread rating exceeding 75.
2. Walls and ceilings adjacent to or enclosing a furnace or water heater shall have an interior finish with a flame spread rating not exceeding 25. Sealants and other trim material two(2)inches or less in width used to finish adjacent surfaces within this space are exempt if supported by framing members or by materials having a flame spread rating not exceeding 25.
3. Exposed interior finishes adjacent to the cooking range shall have a flame spread rating not exceeding 50.
4. Kitchen cabinet doors, counter tops, back splashes, exposed bottoms, and end panels shall have a flame spread rating not to exceed 200.
5. Finish surfaces of plastic bathtubs, shower units, and tub or shower doors shall not exceed a flame spread rating of 200.
6. No burner of a surface cooking unit shall be closer than twelve (12)horizontal inches to a window or an exterior door.

F. Kitchen Cabinet Protectors

1. The bottom and sides of combustible kitchen cabinets over cooking ranges to a horizontal distance of six(6)inches from the outside edge of the cooking range shall be protected with at least 5/16th inch thick gypsum board or equivalent limited combustible material. One(1)inch nominal framing members and trim are exempted from this requirement. The cabinet area over the cooking range or cooktops shall be protected by a metal hood with not less than a three(3)inch eyebrow projecting horizontally from the front cabinet face. The 5/16th inch thick gypsum board or equivalent limited combustible material which is above the top of the hood may be supported by the hood. A 3/8th inch enclosed air space shall be provided between the bottom surface of the cabinet and the gypsum board or equivalent limited combustible material. The hood shall be at least as wide as the cooking range.
2. The metal hood will not be required if there is an oven at least as wide as the cooking range installed between the cabinet and the range, centered above the range.
3. Ranges shall have a vertical clearance above the cooking top of not less than 24 inches to the bottom of the combustible cabinets.

G. Carpeting

Carpeting shall not be used in a space or compartment designed to contain only a furnace and/or water heater. Carpeting may be installed in other areas where a furnace or water heater is installed, provided that it is not located underneath the furnace or water heater.

H. Heating and Fuel Burning System

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall inspect and certify in writing that the heating and fuel system meets the requirements of NFPA-31 - Installation of Oil Burning Equipment as adopted by that Board.

I. Electrical System

A person holding a master license issued by the State of Maine Electricians Examining Board shall inspect and certify in writing that the electrical system is safe and meets the National Electrical code in effect at the time the home was manufactured.

ss11 Sanitary Standards

A. Sewage Disposal

1. All water carried sewage shall be disposed of by means of one of the following:

(Article VIII, Sec.11,A,1 cont'.)

- i. A centralized private sewer system approved by the State of Maine Department of Human Services, serving each mobile home lot in the Mobile Home Park.
 - ii. Individual subsurface sewage systems meeting the requirements of the State of Maine Plumbing Code.
2. All subsurface sewage systems shall be located on soils approved by the local Plumbing Inspector + Licensed Soil Evaluator.

B. Refuse Disposal

The storage, collection and disposal of refuse in the Mobile Home Park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards, or air pollution.

ssl2 Fire Protection

- A. If the Mobile Home Park is to contain 20 living units or more and the park is not served by a piped central or public water supply then the developer shall construct a pond or ponds with suitable dry hydrant(s) within 1/2 mile of the proposed park to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the Town of Union, Maine granting access to and maintenance of the dry hydrant(s) where necessary. The Planning Board may waive this requirement only upon submittal of evidence that there is an existing pond with dry hydrant(s) within 1/2 mile of the proposed Mobile Home Park or that the soil types within 1/2 mile of the proposed Mobile Home Park will not permit their construction. The burden of proving this rests solely with the developer.
- B. If the park is served by a piped central or public water supply then the developer shall install fire hydrants within the park at the rate of one hydrant for every six units or less.

ssl3 Storm Drainage

A storm drainage plan shall be prepared by a professional engineer licensed by the State of Maine showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm. Said storm drainage construction shall conform to the standards set forth in Section 11, D & E of the Subdivision Ordinance and Section 6, A, 5 of the Land Use Ordinance.

ssl4 Storage

At least 294 cubic feet (for example, a utility building measuring approximately 6'x7' long by 7' high or equivalent) of enclosed tenant storage facilities shall be conveniently provided on or near each mobile home lot for the storage of materials and equipment.

(Article VIII cont'.)

ssl5 Utility Requirements

All mobile home parks shall provide permanent electrical, water and sewage disposal connections to each mobile home in accordance with applicable state and local rules and regulations. State rules and regulations shall take precedence over local rules and regulations in the event there is a conflict.

ssl6 Signs

Signs and advertising devices shall be prohibited in the Mobile Home Park except:

- A. One identifying sign at each entrance of the Mobile Home Park no larger than 18 square feet which may be indirectly lit, but not flashing.
- B. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.
- C. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road shall be no more than 10 square feet and shall be limited to one sign per mobile home.
- D. Mobile/manufactured home address signs.
- E. Each mobile/manufactured home shall have a # on it for identification purposes. The styles and location of the identifying sign shall not interfere with vehicle sight distance.

ARTICLE IX - ENFORCEMENT

ssl Construction Inspection

- A. At least five(5)days prior to completing each major phase of construction of required improvements, the developer or builder shall:
 1. Notify the Code Enforcement Officer in writing of the time when it is proposed to complete construction of the following phases of construction so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board:
 - i. Roads and Walkways
 - ii. Septic and Drainage
 - iii. Utilities, Lighting and Signs
 - iv. Fire Pond and Open Space, if required
 - v. Unit Siting, Buffers and Utility Building Siting
- B. If the inspecting official finds upon inspection that any of the required improvements have not been constructed in accordance with the plans and specifications filed for the Mobile Home Park, it shall be so reported in writing to the Selectmen, Planning Board, developer and owner of the Mobile Home

(Article IX, Sec. 1, B, cont'.)

Park. The Selectmen shall take any steps necessary to preserve the rights of the Town of Union, Maine.

- C. 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 article in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Chair of the Planning Board. For major modifications, such as relocation of rights-of-way, property or lot boundaries, changes of grade by more than 1%, etc., the developer or owner shall obtain permission in writing to modify the plans from the Planning Board.
- D. Upon completion of road construction, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Chair of the Planning Board at a regular scheduled Planning Board meeting, at the expense of the applicant, certifying that the road(s) meet or exceed the design and construction requirements of this Ordinance.

ss2 Violations

- A. No mobile home park shall be recorded in the Registry of Deeds until a Final Plan has been approved and signed by the Planning Board in accordance with this Ordinance.
- B. No person, corporation or other legal entity may sell or rent or offer to sell or rent any land in a mobile home park which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. No public utility, water district or sewer district shall serve any lot in a mobile home park for which a Final Plan has not been approved by the Planning Board and recorded in the Registry of Deeds.
- D. No development of the infrastructure of a mobile home park may begin until Final Plan approval by the Planning Board and recorded in the Registry of Deeds. Development includes the grading and construction of roads, the grading of lots, utility installations, siting of mobile homes, and construction of buildings.

ss3 Park Plan Amendments After Approval

No changes, erasures, or modifications shall be made in a Final Plan after approval has been given by the Planning Board unless the plan is first resubmitted and the Planning Board approves any modifications. The applicant is not required to go through the complete review process of an amendment to an existing mobile home park, unless, in the judgment of the Planning Board the amendment substantially alters the character of the original Mobile Home Park, or unless the change constitutes a new mobile home park. If an amended Final Plan is recorded without complying with this requirement, it

(Article IX, sec.3 cont'.)

shall be null and void. The Code Enforcement Officer may institute proceedings to have the plan stricken from the Registry of Deeds.

ss4 Enforcement

The Code Enforcement Officer or the Selectmen of the Town of Union, Maine, upon finding that any provisions of this Ordinance or the conditions of any approval(s) is being violated, are authorized to institute legal proceedings to enjoin violations of this Ordinance.

ss5 Penalties

Any person, firm or corporation being the owner or having control or use of any residential building or infrastructure constructed or placed in violation of any of the provisions of this Ordinance shall be fined in accordance with the penalty provisions of Title 30-A M.R.S.A., Sec. 4452, along with any other pertinent civil penalties.

ARTICLE X - PERFORMANCE GUARANTEES

ss1 Applicability of Article X

The provisions of this article shall be in lieu of the Performance Guarantee requirements of the Subdivision Ordinance.

ss2 Types of Performance Guarantees

With submittal of the application for Final Plan approval, the developer shall 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:

- A. 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; or
- B. A performance bond payable to the Town issued by a surety company, approved by the Selectmen; or
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the Mobile Home Park, from which the Town may draw if construction is inadequate, approved by the Selectmen.

The conditions and amount of the guarantee shall be determined by the Board with advice of the Code Enforcement Officer, Road Commissioner, Selectmen and/or Town Attorney.

ss3 Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation,

(Article X, 3 cont'.)

provisions for inspections of each phase of construction, provisions for the release of part or 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.

ss4 Escrow Account

A cash contribution to the establishment of an escrow account 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 developer, 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 developer 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 developer and the amount withdrawn to complete the required improvements.

ss5 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 developer, and the procedures for collection by the municipality. The bond documents shall specifically reference the Mobile Home Park for which approval is sought.

ss6 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 and completion of the Mobile Home Park and may not be used for any other project or loan.

ss7 Phasing of Development

The Board may approve plans to develop a mobile home park in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed Mobile Home Park street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way and shall provide for adequate fire protection and provide and maintain an adequate cul-de-sac. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

ss8 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 inspecting official 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.

ss9 Default

If, upon inspection, the inspecting official 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 Code Enforcement Officer, the Municipal Officers, the Board and the

(Article X,9 cont'.)

developer or builder. The Municipal Officers shall take any steps necessary to preserve the Town's right.

ARTICLE XI - DEFINITIONS

ss1 Construction of Language

In general, all words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms shall be described below.

ss2 Relationship to Other Town Ordinances

Where there is a conflict between the language contained in this Ordinance and any other Town ordinances, the stricter language shall apply for purposes of this Ordinance.

ss3 Definitions

Central Sewage System: "central sewage system" means that a system is designed to collect sewage off two or more individual lots and convey it to another area where the sewage is disposed in a manner approved by the Division of Health Engineering. A central system may consist of more than one cluster in different areas of the park.

Code Enforcement Officer: A person appointed by the Selectmen of the Town of Union, Maine to 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.

Comprehensive Plan: Any part or element of the overall plan for development of the Town of Union, Maine as defined in Title 30-A, M.R.S.A.ss4301 and as the same may be amended from time to time.

Driveway: A private vehicular entrance from a road or right-of-way. The driveway itself shall not constitute the legal access along which frontage may be measured.

Environmentally sensitive areas: Wetlands, swamps, dune areas, wildlife habitat areas, prime agricultural areas, areas with steep slopes, areas with poorly drained soils if not on a public sewer, and flood plain areas(subject to a 100 year flood).

Family: One or more persons occupying a premise and living as a single housekeeping unit.

Frontage: The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

- A. A way accepted by or established as belonging to the Town of Union, Maine, or the State of Maine, provided access is not specifically prohibited.

(Article XI, *FRONTAGE* Cont'.)

- B. A road way, whether dedicated to public ownership or not, as shown on an approved mobile home park plan; this road way must have been constructed before consideration for lot access.

Hard surfaced: A covering for roads and walkways comprising any hard material such as packed gravel, pea stone, asphalt, concrete, or paving blocks but not including sand, soil, clay, loam, or wood.

Land Use Ordinance: The Town of Union, Maine Land Use Ordinance as adopted in June 1996 by the Town and it's subsequent amendments.

Lot Area: The total horizontal area within the lot lines.

Lot Coverage: The total horizontal area within the lot lines.

Lot Width: The distance between the side boundaries of the lot measured at the front setback line.

Manufactured Housing Unit: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of it's 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 the purposes of this section, two types of manufactured housing are included. These two types are:

A. Those units constructed after June 5, 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

B. 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 the required utilities including the plumbing, heating, air conditioning or electrical systems contained in the unit.

Mobile Home Park Lot: 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

(Article XI *Mobile Home Park Lot* cont'.)

that home. The Planning Board may require a lot to be designated on a mobile home park plan.

Mobile Home Park: A parcel of land under unified ownership approved by the Planning Board designed and/or used to accommodate three or more manufactured housing units.

Mobile Home Subdivision or Development: A parcel of land approved by the Planning Board designed and/or used to accommodate three or more manufactured housing units on individually owned lots.

M.R.S.A.: The abbreviation for *Maine Revised Statutes, Annotated*, the definitive source for all state statutes as published and updated by the State of Maine.

Normal High Water Mark of Inland Waters: That line of the shores and banks of non-tidal water which is apparent because of the different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plant and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation included but is not limited to the following plants and plant groups: Upland grasses, aser, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks ash, alders, elms and maples). In places where the shore or bank is of such character that the high water mark shall be estimated from places where it can be determined by the above method.

Planning Board: The Planning Board of the Town of Union, Maine as created by 30,M.R.S.A. 4952. The Planning Board shall be responsible for administration of this Ordinance.

Road: Public and private ways such as alleys, avenues, boulevards, highways, roads, streets, lanes and other rights-of-way, as well as areas on mobile home park plans designated as rights-of-way.

Road Commissioner: The Town Manager of the Town of Union, Maine in charge of the roads of said Town.

Selectmen: The primary elected officers of the Town of Union, Maine.

Setback: The horizontal distance from a lot line to the nearest part of a structure.

Setback from Water: The horizontal distance from the normal high water mark to the nearest part of a structure.

Subdivision Ordinance: The Town of Union, Maine Subdivision Ordinance as adopted April 1990 by the Town and it's subsequent amendments.

INDEX OF THIS ORDINANCE

INDEX	ARTICLE, SECTION + PAGE
Administration	Article III,ss2, 2
Adoption of Amendment	Article V,ss2, 3
Appeals	Article VII,ss5, 12
Applicability and Review of Article VII	Article VII,ss1, 4
Applicability of Article X (Performance Guarantees)	Article X,ss1, 24
Applicability to this Ordinance	Article III,ss4, 2
Applicants Rights not Vested	Article VI,ss1,A-5, 3
Authority	Article III,ss1, 1
Buffering & Screening	Article VIII,ss4, 13
Conflict with other Ordinances	Article IV,ss2, 2
Construction Inspection	Article IX,ss1, 22
Construction of Language (re. Definitions)	Article XI,ss1, 26
Contents	Article I,ss1, 1
Contents of Guarantee	Article X,ss3, 24
Conversion	Article VIII,ss8, 17
Default	Article X,ss9, 25
Definitions	Article XI,ss3, 26
Effective Date	Page 1 & Article III,ss3, 2
Enforcement	Article IX,ss4, 24
Escrow Account	Article X,ss4, 25
Fees	Article III,ss5, 2
Final Plan Review Procedures	Article VII,ss3, 8
Final Plan Submission Requirements	Article VII,ss3-B, 9
Final Plan Approval and Filing	Article VII,ss3-C, 10
Fire Protection	Article VIII,ss12, 21
General Requirements	Article VIII,ss1, 12
Ground Water Impacts	Article VIII,ss7, 16
Initiation of Amendment	Article V,ss1, 2,3
Letter of Credit	Article X,ss6, 25
Lot Area, Lot Width and Lot Coverage Requirements	Article VIII,ss2, 12
Open Space Reservation	Article VIII,ss5, 13,14
On-Site Inspection	Article VI,ss1,A-3, 3
Park Plan Amendments After Approval	Article IX,ss3, 23
Penalties	Article IX,ss5, 24
Performance Bond	Article X,ss5, 25
Phasing of Development	Article X,ss7, 25
Pre-Application Meeting	Article VI,ss1,A, 3
Pre-Application Procedure	Article VI,ss1, 3
Preliminary Plan Procedure	Article VII,ss2, 4
Preliminary Plan Submission Requirements	Article VII,ss2,B, 6
Preliminary Plat Plan	Article VII,ss2,B-4, 6
Preservation of Natural and Historic Features	Article VIII,ss9, 17
Purpose	Article II,ss2, 1
Relationship to other Town Ordinances	Article XI,ss2, 26
Release of Guarantee	Article X,ss8, 25
Road Design,Circulation,Traffic Impacts and Parking	Article VIII,ss6, 14
Safety Standards	Article VIII,ss10, 17

Sanitary Standards	Article VIII,ss11,	20
Severability	Article IV,ss1,	2
Signs	Article VIII,ss16,	22
Storage	Article VIII,ss14,	21
Storm Drainage	Article VIII,ss13,	21
Title	Article II,ss1,	1
Types of Performance Guarantees	Article X,ss2,	24
Unit Setback Requirements	Article VIII,ss3,	13
Utility Requirements	Article VIII,ss15,	22
Violations	Article IX,ss2,	23
Waiver	Article VII,ss4,	11

Town of Union Parking Ordinance

Authority: This Town of Union Parking Ordinance (hereinafter “the Ordinance”) is adopted pursuant to 30-A M.R.S.A. § 3009.

Purpose: This Ordinance is designed to protect public health and welfare by regulating the parking of motor vehicles on certain public ways. Unrestricted parking on public ways creates traffic hazards and is dangerous to pedestrians and motorists, and it is the purpose of this Ordinance to reduce this danger.

Definitions: For purposes of this Ordinance, the terms listed below are defined as follows; any other term used in this Ordinance shall have its common, ordinary meaning unless otherwise indicated.

“Public Way” means any town way or public easement as defined in 23 M.R.S.A. § 3021 and any portion of any State or State-aid highway located within the town. This term includes ways commonly designated as streets, lanes, roads and avenues and includes paved or unpaved shoulders of such ways.

“Motor Vehicle” is any vehicle defined in 29 M.R.S.A. § 1.

Regulated areas: When signs are erected giving notice thereof, no person shall park any motor vehicle at any time on the following public ways or specified portions thereof:

1. Route 131 (South Union Road) from Route 17 (Heald Highway)/Route 131 (South Union Road) Intersection to the first driveway at the Thompson Community Center, both sides of the road. From the first driveway to 210 South Union Road heading in a southerly direction on the left side of the road only.
2. Common Road from the Common Road/Route 131 (South Union Road) Intersection a set distance of 65 feet back from the intersection both sides of the road.
3. All Roads, No overnight parking in lots or in municipal rights of way.
4. Union Common Area, including all parking lots and street parking, 2 hour parking limit
5. All Roads in Town with temporary or permanent parking signs

Exceptions: This Ordinance does not apply to motor vehicles that are parked in prohibited areas for the following reasons:

Mechanical problems or breakdown;
Emergency situations; or

Maintenance, construction, repair or installation of utilities or the public way by any State or municipal agency or utility company.

Penalties: Any person found in violation of this Ordinance by a Court of competent jurisdiction shall be subject to a fine of not more than \$200.00 nor less than \$40.00; all fines accrue to the municipality.

Persons charged with violating this Ordinance may waive court action by payment of a fee of \$40.00 within 7 days after receiving notice of the violation. Any such waiver and payment of fee shall be processed through the Town Clerk.

Enforcement: This Ordinance shall be enforced by the Municipal Officers, Road Commissioner or their duly appointed designee. Violation of this Ordinance shall be a traffic infraction and shall be prosecuted, if necessary, in the appropriate District Court.

Severability: In the event that any portion of this Ordinance is found by a Court to be invalid, the remaining provisions shall continue in full force and effect.

Effective Date: This Ordinance shall become effective when adopted by a majority of the Municipal Officers.

Towing: Any motor vehicle parked upon a public street of the Town of Union in a place, manner or for a length of time prohibited by this Ordinance, or during any parking ban declared by the Municipal Officers/Town Manager/Road Commissioner (provided notice of such ban has been given at least 4 hours prior to the ban to the public by notification to a representative of a radio station or television station serving the area), is hereby declared to be an obstruction in the public way and a menace to the safety of the traveling public. Any motor vehicle parked which constitutes an obstruction under this Section of this Ordinance may at the request and under the direction of the Municipal Officers/Town Manager/Road Commissioner be towed to a suitable garage or storage space and impounded thereon until all towing and storage fees are paid.

When any vehicle is towed pursuant to this Ordinance, the following procedure shall be followed:

1. Notice shall be sent to the registered owner of the vehicle by regular 1st-class mail, postage pre-paid, within 24 hours following the tow.
2. The Notice shall contain the following information: registration number and brief description of the vehicle; name and address of person or company who performed the tow; location where the vehicle is stored; the provisions of the Ordinance which were violated and led to the tow.

In witness whereof the parties, or their duly empowered representatives, have executed this
Parking Ordinance on the 20th day of June, 2017.

MUNICIPAL OFFICERS OF
THE TOWN OF UNION, MAINE

Witness to the Selectmen

Gregory Grotton, Chairman

Lyle Cramer, Selectman

James W. Justice, Selectman

John Shepard, Selectman

Sarah Drickey, Selectman

Town of Union

Sludge Ordinance

A True Copy Attest

Janice Esancy
Union Town Clerk

I hereby certify that this Sludge Ordinance was adopted at the
June 22, 1998 Annual Town Meeting.

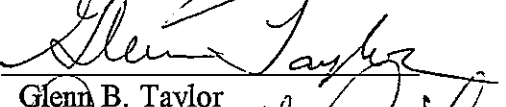
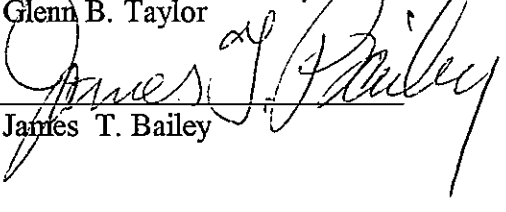
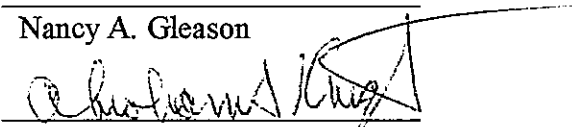
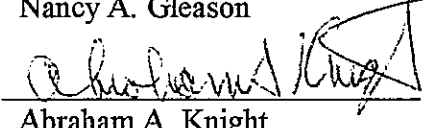
TOWN OF UNION
Office of Selectmen
Union, Maine

CERTIFICATION

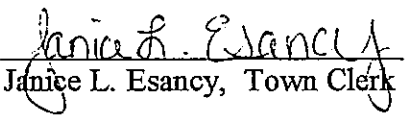
We, the undersigned Board of Selectmen, hereby certify the proposed ordinance entitled "Town of Union Sludge Ordinance", to be voted upon by the Town of Union's voters on June 22, 1998.

Given unto our hands the nineteenth day of May A.D., 1998.

UNION BOARD OF SELECTMEN


Jarrett A. Feyler, Chairman
Glenn B. Taylor
James T. Bailey
Nancy A. Gleason
Abraham A. Knight

ATTEST: A true copy of an ordinance entitled "Town of Union Sludge Ordinance", as certified to me by the Municipal Officers of Union, Maine on the nineteenth day of May, 1998.

Signature: 

Janice L. Esancy, Town Clerk

Union Sludge Ordinance

SECTION I: TITLE

This Ordinance shall be known and cited at the 'Town of Union Sludge Ordinance', and will be referred to as the 'Ordinance'.

SECTION II: AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution and the Home Rule provisions of Title 30-A M.R.S.A. Section 3001, et. seq. and the Growth Management Act Title 30-A M.R.S.A. Section 4312 et. seq.

SECTION III: FINDINGS & PURPOSE

A. The purposes of this Ordinance are:

1. To protect the health and safety of the residents of the Town of Union;
2. To maintain the quality of the natural resources within the Town of Union
3. To regulate the storage and land application of municipal, commercial and industrial waste water treatment plant sludge and other residuals.

B. The residents of the Town of Union find:

1. That sludge and residuals may contain concentrations of heavy metals, dioxins, pathogens, polychlorinated biphenyls and other substances which may be harmful to humans, animals, plant life, or aquatic life, and to the preservation and safety of the natural environment;
2. That the topography of Union includes many water resources including Seven Tree Pond, Round Pond, Sennebec Lake, The Medomak and St. George Rivers, Pettingill Stream, wetlands, numerous brooks and significant ground water aquifers. These aquatic resources, together with significant areas of moderate to severe slopes within the Town of Union, make the Town very susceptible to environmental damage from runoff from areas where sludge may be spread.

SECTION IV: SLUDGE PERMIT APPLICATION PROCEDURE

A. Application Procedure

1. An applicant wishing to deliver, store, or spread sludge or residuals shall complete a 'Sludge Application Form' provided by the Town of Union.
2. The applicant shall file ten (10) copies of the application, supporting documentation, application fees and escrow monies with the Union Code Officer at least thirty (30) days in advance of the Planning Board meeting at which the applicant wishes to be on the agenda.
3. The application shall be accompanied by a non-refundable 'application fee' of five thousand dollars (\$5,000) in the form of a bank or certified check payable to the Town of Union, such fees to be used for initial expenses to the town of Union and the remainder to the general fund.
4. The application shall be accompanied by an 'escrow check' in the amount of thirty-five thousand dollars (\$35,000), payable to the Town of Union. These funds shall be placed in an interest bearing account by the Town of Union referenced to the applicant by social security or

Union Sludge Ordinance

federal identification number. The funds in this account shall allow the Town of Union to provide necessary expertise in reviewing the application and conducting additional studies that the Union Planning Board may require to ensure that public health and natural resources of Union would not be at risk by the spreading or storage of sludge. Funds shall be withdrawn from this account by the Treasurer of the Town of Union only at the Planning Board's request. Any interest earned and any remaining balance in the account shall be returned to applicant following approval or denial of the application. If, during the review process, the escrow funds are not sufficient to cover expenses incurred, the Planning Board shall determine what additional funds are necessary and shall notify the applicant. The applicant shall deposit the funds requested with the Town of Union within fourteen (14) business days of written notification.

5. The Planning Board shall determine if the application is complete. If the application is found to be incomplete, the Planning Board shall notify the applicant, in writing, within fourteen (14) days, of any additional information required.

6. The applicant shall provide the additional information within thirty (30) days of receiving a written request for more information from the Planning Board. If the additional information requested is not received, the application shall be considered denied.

7. Upon receiving all required information, the Planning Board shall deem the application complete.

8. The Planning Board shall hold a 'public hearing' within thirty 30 days of determining that an application is 'complete'.

9. The Planning Board shall require notification of the public hearing to be sent by certified mail, return receipt requested, to owners of all property, within the town of Union and within 2,800 feet of the proposed sludge spreading site, at least 10 days before the scheduled public hearing.

10. Notice shall also be published in newspapers of general circulation in the Town of Union at least ten (10) days prior to the public hearing, such as the Camden Herald, Courier Gazette and Bangor Daily News.

11. Notice shall also be posted in five (5) public places designated by the Planning Board.

12. The Planning Board, after due deliberation, shall determine whether the application should be approved, approved with conditions, or denied. Upon approval of an application by the Planning Board, a copy of that approval, together with any conditions attached thereto, shall be recorded in the Knox County Registry of Deeds to be indexed under the name of the property owners with reference to book and page of all proposed sites.

13. If, during the Union application process, an applicant is denied permission to spread sludge on the subject property by the Maine Department of Environmental Protection, the Applicant shall notify the Town of Union within three (3) days. Notice of denial by DEP shall terminate the application process in Union. The Planning Board shall take no further action and the application shall be deemed denied.

14. The Planning Board, within fourteen (14) days of reaching a final decision shall notify the applicant in writing.

15. Upon approval of an application by the Planning Board and review by the Code Officer, the Code Officer may issue a permit.

Union Sludge Ordinance

16. A permit issued under this Ordinance shall be valid for a period of one (1) year from date of issuance.

17. If, at any time, as a result of any testing required by DEP or this Ordinance, elements or compounds are found in quantities which may be harmful to the health and safety of humans, animals, and/or aquatic life, the Planning Board shall require additional testing at the applicant's expense and shall review the conditions of the permit. The Planning Board may, based on the additional testing or risk assessment determine that continued storage and/or spreading of sludge or residuals poses a risk to the health and safety of human, animal, or aquatic life and may take appropriate action including modifications or suspension of any permit.

B.Submission Requirements

1. An application to spread sludge or residuals shall include the following:

- a. A complete 'Sludge Application for the Town of Union';
- b. A complete "Application for Sludge Utilization" prepared for DEP;
- c. An application fee of \$5,000 and an escrow fee of \$35,000;
- d. A map to scale of the proposed site that clearly indicates property lines, abutters, owners of property within 1,250 feet, existing water wells located within 1,250 feet, primary sand and gravel recharge areas, and ground water aquifers with twenty (20) foot contours
- e. A baseline soil analysis of each site conducted in a manner recommended by the Natural Resource Conservation Service and including testing as per Appendix A of this Ordinance,
- f. A baseline test of all water wells within 1,250 feet of the proposed site;
- g. A hydrogeologic analysis conducted by a certified geologist or registered professional engineer qualified by education and experience to conduct such an analysis. This analysis shall be sufficient to determine that the application of sludge would meet the performance standards set forth in Section IV of this Ordinance and shall include, but not be limited to, the following:
 - i. A site-specific geologic literature search.
 - ii. Aerial photo interpretation, including a photolineament analysis to identify potential high-yield aquifers and their recharge areas.
 - iii. Documentation of type, depth, yield, static water level and length of casing of any water wells within 1,250 feet of a proposed spreading site.
 - iv. Reconnaissance field mapping by a certified geologist of the surficial and bedrock geology of the proposed site and all areas within 1,250 feet, which field mapping shall relate any observed bedrock outcrop fracture orientation and spacing data to the photolineament analysis.
 - v. Documentation of the hydrogeologic setting of the site including, but not limited to, a general description of the depth and expected seasonal variations in depth to the first ground water table encountered below ground surface, a description of the general direction of ground water flow up to the point where discharge to surface water occurs, a description of the relationship of the site to any significant aquifers including bedrock aquifers or inferred bedrock aquifers.

Union Sludge Ordinance

- vi. A description of the background ground water quality at the up gradient edges of the proposed site. This shall include background levels for any constituent regulated by this Ordinance as set forth in Appendix A.
- vii. A proposed ground water monitoring plan to be used from just prior to, during, and for 2 years following the application of the sludge, including the proposed horizontal and vertical placement of monitoring wells and all domestic wells within 1,250 feet monitored, frequency of monitoring, and precision of measurement for each parameter to be measured.
- h. A plan for an independent weekly analysis of the sludge. The sampling and analysis shall be performed on all sludge by a state-certified laboratory chosen by the Planning Board. Sampling and analysis shall be based on the "Methodology for Sampling and Analysis of PCDD's and PCDF's in Sludge and Residuals".
- i. A plan for the submission of all test results required by this Ordinance.
- j. The Planning Board may require; where the site location is under heavy agricultural use, where there is a potential for leaching of heavy metals, where the site has previously been used as a waste site, where there are general site conditions including slope and proximity to aquatic or wetland resources, such other information, including additional testing, as it may deem necessary and appropriate for the evaluation of the application.

SECTION V: PERFORMANCE STANDARDS

A. General Standards

1. Storage and/or spreading of sludge residuals is prohibited, unless approval has been obtained from the Planning Board and a permit issued by the code officer.
2. There shall be no winter field stacking of sludge or residuals. Stacking on each site shall be limited to the amount approved for use on such site.
3. Temporary field stacking, should it occur, shall not leach into the soil nor disperse into the air nor emit malodorous odors to the atmosphere.
4. Spreading of sludge or residuals shall only be allowed from May 15 to October 15 in any year. Spreading of sludge or residuals is prohibited if it is raining or the ground is saturated, frozen, or snow-covered.

B. Testing Requirements

Subject to approval by DEP, the Planning Board shall recommend for approval, or conditional approval, an application for spreading of sludge or residuals if the applicant agrees to comply with any additional testing required by this Ordinance or approval conditions, including, but not limited, to the following:

1. Site Testing and Monitoring

- a. Soils Analysis: The applicant shall furnish a baseline soils analysis and soils testing program in accordance with the provisions of this Ordinance with the initial application to the Planning Board.
- b. Water Analysis: The applicant shall install at least two (2) monitoring wells on each site. The number and location of wells to be determined by a certified geologist or registered professional engineer mutually acceptable to the Planning Board and the applicant. The

Union Sludge Ordinance

water in the monitoring wells shall be tested weekly based on parameters for sludge or residuals approved by the Planning Board.

2. Characteristics of Sludge or Residuals

- a. The Planning Board shall provide for the supervision of an independent test sample taken from each delivery of sludge into the environs of the Town of Union and tested by the "EP Toxicity Test" as required by Appendix A of this Ordinance.
- b. Sludge or residuals shall not be delivered to, stored, or spread in the Town of Union if testing required by this Ordinance indicates that concentrations of heavy metals, organic compounds, or other pollutants exceed the permissible concentrations and/or limits codified in DEP regulations for the management and spreading of sludge.

3. Hydrogeological Criteria

- a. Sludge or residuals shall not be stored or spread on land with a slope of greater than 15%.
- b. Where the proposed application site has a slope of 15% or less, sludge or residuals shall not be delivered to, stored, or spread within the following setback areas:
 - i. Residences; bodies of water including but not limited to lakes, ponds, and streams; water supply wells - 1000 feet
 - ii. Intermittent streams - 500 feet
 - iii. Public roadways, drainage gullies, property boundaries - 500 feet
- c. No sludge or residuals may be stored, or spread on a site closer than a 200 days hydraulic ground water travel time from or to the nearest water well.
- d. Sludge or residuals shall not be stored or spread over a significant ground water aquifer, primary sand and gravel recharge area or within the recharge area of a public water supply.
- e. Sludge or residuals shall not cause the State of Maine Primary Drinking Water Regulations as amended, which are incorporated by reference, to be exceeded in the ground water at a distance greater than 50 feet from the edge of the sludge or residuals spreading boundary. The burden shall be upon the applicant to show that the spreading of sludge or other residuals will not cause these standards to be exceeded.

4. Aquatic Impact Criteria

The spreading of sludge or residuals shall not cause the National Water Quality Criteria (freshwater chronic criteria) established by the U.S. Environmental Protection Agency to protect aquatic organisms, to be exceeded in classified water bodies that will receive runoff from the site of the storage or spreading of sludge or other residuals. The freshwater chronic criteria appear in full in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," published in the EPA document Quality Criteria for Water, 1989, EPA 440/5-6-00 1. The burden shall be on the applicant to establish that the spreading of sludge or other residuals will not cause these criteria to be exceeded.

5. Additional Requirements

The Planning Board shall not approve an application for the spreading of sludge or residuals on land or the storage of sludge or residuals within the Town of Union unless;

- a. The applicant agrees in writing to furnish the Code Enforcement Officer for the Town of Union with copies of all conditions and limitations imposed by DEP, and advanced notice

Union Sludge Ordinance

of at least seven (7) days of any changes in the composition of the sludge or residuals, and further testing required by the DEP and the results of those tests.

b. The applicant agrees in writing to notify the Code Enforcement Officer for the Town of Union at least seven (7) days in advance of delivery of any sludge or residuals, to advise said Code Enforcement Officer of the proposed spreading schedule, and the identity of the person actually doing the spreading. The person spreading sludge or residuals shall notify said Code Enforcement Officer not later than seven (7) days prior to spreading.

c. The applicant has provided the landowner and the Town of Union a written statement indicating that the applicant has agreed to indemnify the owner for any damages resulting from the spreading of sludge or residuals.

d. Each load shall be tested at the plant prior to being transferred to the site location for materials deemed pertinent by the Planning Board, and the material delivered to the site also be tested upon delivery to the site and prior to any spreading. No spreading will be allowed until the results of the tests are received and evaluated and permission to spread is obtained from the Code Enforcement Officer.

e. The applicant shall furnish documentation as to its financial responsibility should the storage and/or spreading of sludge or residuals prove hazardous to the health and safety of the residents, their descendants, the wildlife, soil, water, and/or air quality of the Town of Union, and to fund the mitigation expense of full cleanup of any site as is necessary. In order to demonstrate this financial responsibility, the applicant shall be required to provide the following:

i. A liability insurance policy covering all potential liability including mitigation expenses, in an amount commensurate with the risk attributable to the potential spreading site, but in no case less than \$1,000,000.00. The Town shall be named as additional insured on that policy. Cancellation of any such policy shall be considered a revocation of the permit to spread and no further material may be transferred to that site or spread at that site.

ii. The applicant shall furnish to the Town of Union a performance bond which shall be in an amount determined by the Planning Board and shall be available to the Town to provide funding for any cleanup or mitigation activities that may be required as a result of damages that may occur from sludge spreading activities. The performance bond shall be for the duration of spreading activities plus five (5) years after termination.

f. The applicant agrees in writing to provide a fence or other sturdy barrier to prevent access to the sludge or residuals storage and/or spreading area by animals or unauthorized individuals.

SECTION VI: ENFORCEMENT AND PENALTY

A. The Union Code Enforcement Officer shall have the right to enter storage and/or application sites at all reasonable hours for the purpose of inspecting sites for compliance with this Ordinance.

B. If the Code Enforcement Officer finds violations of any permit conditions imposed by this Ordinance or DEP Sludge Spreading Regulations he shall issue a written notice to the landowner, Planning Board, applicant, operator (if different from the landowner) and DEP. Further application shall be halted until the Planning Board can meet to examine the issue.

C. The Code Enforcement Officer, upon finding that provisions of this Ordinance or conditions

Union Sludge Ordinance

of approval have been violated, shall suspend the permit. The Code Enforcement Officer may take any other action deemed necessary, including prosecution of the code violation pursuant to Rule 80K of the Maine Rules of Civil Procedure.

D. An applicant and/or operator who violates the Ordinance or the conditions of approval, as well as the owner who permits such violations to occur, shall each be guilty of a civil violation and shall be subject to a civil penalty of not less than \$5,000 nor more than \$50,000 for each offense. Each day such violation is permitted to exist after notification shall constitute a separate offense.

SECTION VII: APPEALS.

An aggrieved party may appeal any final action taken by the Planning Board to the Union Board of Appeals within thirty (30) days of a final decision.

SECTION VIII: VALIDITY, SEVERABILITY, AND CONFLICT WITH OTHER ORDINANCES, CODES, OR STATUTES.

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

B. Wherever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

SECTION IX: DEFINITIONS

Applicant: The owner and/or operator of the waste water treatment plant or generator of the sludge

Baseline: Means the existing site conditions for a specific location prior to the storage or spreading of any sludge material at that location

Baseline Monitoring Plan: A monitoring plan that will define the existing site conditions for a specific location and shall include, but is not limited to, characterizations of the following resources: wildlife, surface water, ground water quality and quantity, soil type and condition, plant growth, air quality and socioeconomic characteristics

Code Officer: The Union Code Enforcement Officer

DEP: Maine Department of Environmental Protection

Fractured Bedrock Aquifer: A consolidated rock formation which is fractured and which is saturated and recharged by precipitation percolating through overlying sediments to a degree which will permit wells drilled into the rock to produce a sufficient water supply for domestic use

Ground Water: All the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or connect with any other waters of the State

Operator: Any person who has care, charge, or control of a land site or storage facility site subject to this Ordinance. This person may be the owner, an agent, a lessee of the owner, or an independent contractor

Union Sludge Ordinance

Owner: Any person or persons who, alone or in conjunction with others, owns the property upon which is located an application site or storage facility site subject to this Ordinance

Planning Board: The Union Planning Board

Residuals: Pulp and paper mill waste water, treatment plant sludge, ash from incineration of sludge and wood generated by commercial or industrial facilities and other compounds containing a portion of these materials.

Significant Ground Water Aquifer: Any formation of soil or fractured bedrock that contains significant recoverable quantities of water

Significant Sand and Gravel Aquifer: A porous formation of ice-contact and glacial out wash sand and gravel that contains significant recoverable quantities of water which are likely to provide drinking water supplies

Sludge: The solid, semi-solid or liquid residue generated by a municipal, commercial or industrial waste water treatment plant and all materials containing same

Temporary Field Stacking: Short-term storage of sludge or other application materials for a period of not longer than forty-eight (48) hours

APPENDIX A

Testing Parameters

1. All soil, water, sludge and other residual tests shall include pH, Magnesium, Potassium, Phosphorous, Boron, Arsenic, Chloride, Selenium, Fluoride, Sulfate, Aluminum, Sodium, Cadmium, Copper, Nickel, Lead, Vanadium, Zinc, Silver, Barium, Calcium, Iron, Mercury, Manganese, Molybdenum, Nitrate, Nitrite, Ammonium, Total Kjeldahl N, Polychlorinated Dibenzofurans (PCDF's), Polychlorinated Biphenyls (PCB's), Total Organic Halogens (TOX), Polychlorinated Dibenzoprans, (All Dioxin Cogeners), Chromium (metallic, hexavalent, trivalent), and Pathogens.
2. Soil tests shall also include ion exchange capacity, crop recommendations, texture separate analysis, and percent of organic matter.
3. Water tests shall also include color and turbidity.
4. Sludge and Other Residuals Tests shall also include the percent of components present in the test results of paragraph 1 of this Appendix. The percent of loss of ignition shall also be included.

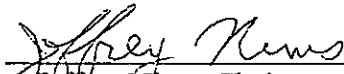
TOWN OF UNION
Office of Selectmen
Union, Maine

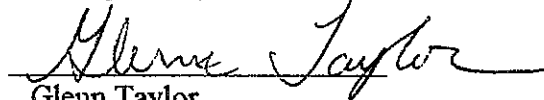
CERTIFICATION

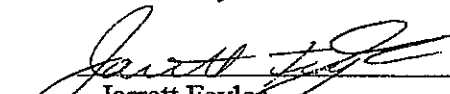
We, the undersigned Board of Selectmen, hereby certify the proposed ordinance entitled "Town of Union Street Naming and Numbering Ordinance", along with the Union Street Directory and Map to be voted upon by the Town of Union's voters on June 5th, 1995.

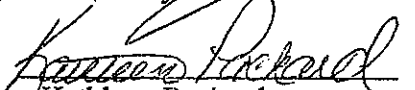
Given unto our hands the twenty-third day of May, A.D., 1995.

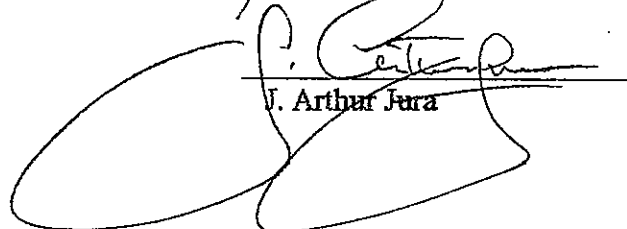
UNION BOARD OF SELECTMEN


Jeffrey Nims, Chairman

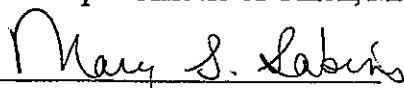

Glenn Taylor


Jarrett Feyler


Kathleen Packard


J. Arthur Jura

ATTEST: A true copy of an ordinance entitled "Town of Union Street Naming and Numbering Ordinance", along with the Union Street Directory and Map as certified to me by the Municipal Officers of Union, Maine on the twenty-third day of May, 1995.

Signature: 
Mary S. Sabins, Town Clerk

TOWN OF UNION STREET NAMING AND NUMBERING ORDINANCE

Section 1

Purpose

The purpose of this ordinance is to enhance the easy and rapid location of properties for the delivery of public safety and emergency services, postal delivery, and business delivery.

Section 2

Authority

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A M.R.S.A. Section 3001.

Section 3

Administration

This ordinance shall be administered by the Code Enforcement officer and Board of Selectmen. The Code enforcement officer shall assign road numbers to all properties, both existing and proposed. All road names will be assigned by The Road Naming Committee. The Code enforcement officer and Board of Selectmen shall be responsible for maintaining the following official records of this ordinance:

- a. A Union map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by last name, showing assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

Section 4

Naming System

All roads in Union that serve two or more addresses shall be named regardless of whether the ownership is public or private. A road name assigned by the town shall not constitute or imply acceptance of the road as a public way. The following criteria shall govern the naming system:

- a. Similar names-no two roads shall be given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.
- b. Each road shall have the same name throughout its entire length.
- c. No two roads can possess the same name with a designation of North or South/East or West. (e.g. North Pond and South Pond Rd.).

Section 5.

Numbering system

Numbers shall be assigned every 10 feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the numbering system:

a. All number origins shall begin from the designated center. Route 17 shall be the designated center line for the town. All numbers shall originate from this road to the north or south. Route 17 shall be known as the R.H. Heald Highway in the Union sector. It shall be numbered from east to west.

b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door or driveway of said structure.

c. Every structure with more than one principle use or occupancy shall have a separate number for each use or occupancy. (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2).

Section 6.

Compliance

All owners of structures shall, on or before the effective date of this ordinance, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

- a. Number on the Structure or Residence. Where the residence or structure is within 75 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure in the vicinity of the front door or entry.
- b. Number at the Street Line. Where the residence or structure is over 75 (fifty) feet from the edge of the road right-of-way or is not visible from the road the assigned number shall be displayed on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the residence or structure. At a minimum height of 42 inches.
- c. Size and Color of Number. Numbers shall be displayed in a contrasting color to the residence or structure and shall be of a minimum size of 4 (four) inches as approved for use by the Board of Selectmen and shall be located as to be visible from the road.
- d. Every person whose duty is to display the assigned number shall remove any different number which might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. Interior location. All residents and other occupants are requested to post the assigned number and road name adjacent to their telephone for emergency reference.

Section 7

New Developments and Subdivisions

All new developments and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

a. New Developments. Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to procure an assigned number from the Code Enforcement Officer.

b. New Subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision.

Section 8

Effective Date

This ordinance shall become effective as of June 5, 1995. It shall be the duty of the Town of Union to notify by mail owner and the Post Office of the new address within thirty days. It shall be the duty of each property owner to comply with this ordinance within 30 (thirty) days of notification. On new structures, numbering will be installed prior to final inspection, if required by local ordinance, or when the structure is first used or occupied, whichever comes first.

TOWN OF UNION

SUBDIVISION ORDINANCE

Adopted in April 1990

Re-typed

January 2012

Amended June 18, 2012

Amended June 15, 2015

A True Copy Attest

Marcy Corwin
Union Town Clerk

SUBDIVISION ORDINANCE FOR THE TOWN OF UNION, MAINE

TABLE OF CONTENTS

	Section 1.	
	Purpose.....	1
Section 2.	Authority and Administration.....	2
	A.) Authority.....	2
	B.) Administration.....	2
Section 3.	Definitions.....	2
Section 4.	Administration Procedure.....	6
	A.) Purpose.....	6
	B.) Agenda.....	6
Section 5.	Preapplication.....	7
	A.) Procedure.....	7
	B.) Submission.....	7
	C.) Contour Interval and On-Site Inspection.....	7
	D.) Rights Not Vested.....	7
	E.) Following Sketch Plans.....	7
Section 6.	Minor Subdivisions.....	8
	A.) General.....	8
	B.) Procedure.....	8
	C.) Submissions.....	9
Section 7.	Preliminary Plan for Major Subdivisions.....	10
	A.) Procedure.....	10
	B.) Submissions.....	12
	1.) Location Map.....	12
	2.) Preliminary Plan.....	12
Section 8.	Final Plan for Major Subdivision.....	15
	A.) Procedure.....	15
	B.) Submission.....	17
	C.) Final Approval and Filing.....	18
Section 9.	Enforcement.....	20
	A.) Inspection of Required Improvements.....	20
	B.) Violations and Enforcement.....	21

Section 10.	General Standards (Major and Minor).....	22
	A.) Conformance with Comprehensive Plan.....	22
	B.) Retention of Open Space and Natural or Historic Features....	22
	C.) Lots.....	23
	D.) Utilities.....	23
	E.) Required Improvements.....	24
	1.) Monuments.....	24
	2.) Water Supply.....	24
	3.) Sewage Disposal.....	25
	4.) Surface Drainage.....	25
	F.) Land Features.....	26
	G.) Cluster Development.....	26
	1.) Purpose.....	26
	2.) Basic Requirements.....	26
	H.) Dedication and Maintenance of Common Open Space and Services.....	27
	I.) Construction in Flood Hazard Area.....	28
Section 11.	Street and Storm Drainage Design and Construction Standards....	28
	A.) General Requirements.....	28
	B.) Street Design Standards.....	29
	chart.....	30
	C.) Street Construction Standards.....	32
	D.) Storm Water Management Design Standards.....	34
	E.) Storm Drainage Construction Standards.....	35
	F.) Additional Improvements and Requirements.....	36
	G.) Certification of Construction.....	37
Section 12.	Performance Guarantees.....	37
	A.) Types of Guarantees.....	37
	B.) Contents of Guarantees.....	37
	C.) Escrow Account.....	38
	D.) Performance Bond.....	38
	E.) Letter of Credit.....	38
	F.) Phasing of Development.....	38
	G.) Release of Guarantee.....	38
	H.) Default.....	38
	I.) Private Roads.....	38
	J.) Improvements Guaranteed.....	39
Section 13.	Waivers.....	39
Section 14.	Appeals.....	39

Section 15.	Development Impact Fees.....	39
	A.) Conducting the Assessment.....	39
	B.) Improvement Responsibilities.....	40
	C.) Community Facilities Impact Analysis.....	40

SECTION 1. PURPOSES

The purposes of this Ordinance are to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Union, to protect the environment and to promote the orderly development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Union, Maine, the Planning Board shall consider the following criteria, and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivisions will meet the guidelines of Title 30-A MRSA, Chapter 187, Subchapter 4.

The Subdivision:

- A.) will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoil and their ability to adequately support waste disposal; the slope of the land and its effects on effluents;
- B.) has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C.) will not cause an unreasonable burden on an existing water supply;
- 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 may result;
- 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 solid and sewage waste disposal;
- G.) will not cause an unreasonable burden on the ability of the Town of Union to dispose of solid waste and sewage if town services are to be utilized;
- H.) will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to Union's ponds, lakes, and rivers; and
- I.) is in conformance with Union's Comprehensive Plan.
- J.) The subdivider has proven adequate financial and technical capacity to meet the above-stated standards
- K.) whenever situated in whole or in part, within 250 feet of any pond, lake, or river, will not adversely affect the quality of the 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.) All principal structures within the subdivision shall be constructed with their lowest floor, including the basement, at least 1 foot above the 100-year flood elevation as established by the most current FEMA Maps.

SECTION 2. AUTHORITY AND ADMINISTRATION

- A.) Authority
 - 1.) These standards have been prepared in accordance with the provisions of Title 30-A MRSA, Chapter 187, Subchapter 4.
 - 2.) These standards shall be known and may be cited as “Subdivision Ordinance of the Town of Union, Maine.”
- B.) Administration
 - 1.) The Planning Board of the Town of Union, hereinafter called the Board, shall administer this ordinance
 - 2.) The provisions of this ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A MRSA, Chapter 187, Subchapter 4, within the boundaries of the Town of Union.

SECTION 3. DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

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 owned in common by lot/unit, owners, the Town, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

COMPLETE APPLICATION:

An application shall be considered complete upon submission of the required fee and all information required by these Ordinances for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that the application is complete.

COMPREHENSIVE PLAN or POLICY STATEMENT

Any part or element of an overall plan or policy for development of the municipality as defined in Title 30-A MRSA, sub-section 4326.

CONTIGUOUS LOTS:

Lots which adjoin at any line or point, or are separated at any point by a body of water.

DEVELOPED AREA:

Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

DRIVEWAY:

A vehicular access-way serving 2 dwelling units or less.

DWELLING UNIT:

A room or suite of rooms used as a habitation which is separate from other such rooms or suite of rooms, and which contains independent living, cooking, sleeping, bathing, and sanitary facilities; including single family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

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.

HIGH INTENSITY SOIL SURVEY:

A soil survey conducted by a Certified Soil Scientist, meeting the standards of the national Cooperative Soil Survey, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to the subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation 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 1% chance of occurring in any year).

NORMAL HIGH WATER ELEVATION OF INLAND WATERS:

That line on the shores of banks on non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes, but is not limited to, the following plants and plant groups: water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes, but is not limited to, the following plants and plant groups: upland grasses, aster, lady slipper, winter

green, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined (rockslides, ledges, rapidly eroding or slumping banks), the normal high water elevation shall be estimated from places where it can be determined by the above method.

INDUSTRIAL PARK or DEVELOPMENT:

A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

NET RESIDENTIAL ACREAGE:

The total acreage available for the subdivision and shown on the proposed subdivision plan, minus the area of the streets of access areas which are unsuitable for development as outlined in Section 1.11.2 in the Land use Ordinance.

NET RESIDENTIAL DENSITY:

The average number of dwelling units per net residential acre.

OFFICIAL SUBMITTAL DATE:

The date upon which the Board issues a receipt indicating a complete application has been submitted.

PERSON:

Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

PLANNED UNIT DEVELOPMENT:

A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

PLANNING BOARD:

The Planning Board of the Town of Union, pursuant to Title 30-A MRSA, Chapter 187, Subchapter 4.

PRELIMINARY SUBDIVISION PLAN:

The preliminary drawings indicating the layout of the subdivision to be submitted to the Board for its consideration.

RECORDING PLAN:

A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer or an interest in the property, such as sewer and water line locations and sizes.

RESUBDIVISION:

The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

SOLAR COLLECTION:

A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a buildings energy supply.

SOLAR ENERGY SYSTEM:

A complete design or assembly consisting of a solar energy collector, and energy storage facility (when used), and components for the distribution of transformed energy.

STREET:

Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Street Classifications:

ARTERIAL STREET: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets.

COLLECTOR STREET: A street servicing at least 15 lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

MINOR STREET: A street servicing more than 2 and less than 15 lots or dwelling units.

PRIVATE RIGHT OF WAY: A vehicular access way serving no more than 2 dwelling units.

SUBDIVISION:

The division of a tract or parcel of land into three or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage, or adoption, unless the intent of such gift is to avoid the

objectives of these Ordinances, or by transfer or any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of these ordinances.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lots, unless both such dividings are accomplished by a sub divider who shall have retained 1 of such lots for his own use as a single family residence for a period of at least 5 years prior to such second dividing. Lots of 40 or more acres shall not be counted as lots.

For the purpose of these Ordinances, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands 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.

SUBDIVISION, MAJOR:

Any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed street or any subdivision requiring extension of street or services and/or 4 building on same land.

SUBDIVISION, MINOR:

And subdivision containing not more than 4 lots or not more than 4 building/dwelling units, and in which no street is proposed to be constructed.

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, or a private road established by the abutting land owners.

SECTION 4. ADMINISTRATION PROCEDURE

A.) PURPOSE

The purpose of this section is to establish an orderly, equitable, and expeditious procedure for receiving and reviewing subdivision applications.

B.) AGENDA

Applicants shall request to be placed on the Boards agenda at least fourteen (14) days in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attends a meeting but who are not on the Boards agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

SECTION 5. PREAPPLICATION

A.) PROCEDURE

- 1.) Applicant submits "Preliminary Presentation Form" and sketch plans.
- 2.) Question and Answer period. Board makes specific, preliminary, suggestions to be incorporated by the applicant into subsequent submissions; and
- 3.) Scheduling of on-site inspection.

B.) SUBMISSION

The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the Sketch Plan be superimposed on or accompanied by a copy of the Assessors Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision.

C.) CONTOUR INTERVAL AND ON-SITE INSPECTION

Within 30 days, the Board may determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision and may hold an on-site inspection of the property.

D.) RIGHTS NOT VESTED

The submittal of review of the preapplication Sketch Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, MRSA, ss 302.

E.) FOLLOWING SKETCH PLANS

Site clearing shall be limited to that required for test pits and surveying, unless prior approval is granted by a majority vote of The Board.

SECTION 6. MINOR SUBDIVISIONS

A.) GENERAL

The Board may require, where it deems it necessary for the protection of the public health, safety, and welfare, that a Minor subdivision comply with all or any of the submission requirements for a Major subdivision.

B.) PROCEDURE:

- 1.) Within 6 months after the on-site inspection by the Board, the subdivider shall submit an “Application for the Approval of the Final Plan” at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- 2.) All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee as set by the Board of Selectmen, payable by check to the Town of Union – Planning Board Account. If a public hearing is deemed necessary by the Board, and additional fee shall be required to cover the additional costs of advertising and postal notification (not to exceed \$150.00).
- 3.) Ten days prior to the presentation of a Final Plan, the subdivider shall notify all abutting property owners and all owners of property across the street from the proposed subdivision of the date, time and location of the Final presentation. The subdivider shall furthermore certify to the Board that the above landowners have been notified.
- 4.) The subdivider, or his/her duly authorized agent, shall attend the meeting of the Planning Board to discuss the Preliminary and Final Plan.
- 5.) Upon determination that a complete application has been submitted for a review, the Board shall issue a dated receipt to the subdivider, if appropriate.
- 6.) If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application and shall publish notice of the application pending, date, time, and place of the hearing in the local newspaper at least 2 times; the date of the first publication to be at least 7 days prior to the hearing.
- 7.) Within 30 days of a public hearing, or within 60 days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise

mutually agreed to by the Board and the sub divider, the Board shall make a written findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reason for any conditions or denial.

C.) SUBMISSIONS:

The subdivision plan for a Minor Subdivision shall consist of 2 reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and 3 copies of 1 or more maps or drawings, drawn to a scale of not more than 100 feet to the inch. Plans for subdivision containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary details can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the boarder lines on the left side for binding and a 1 inch margin outside the border along the remaining sides. Space shall be provides for endorsements by the Board. 3 copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

- A) Proposed name of the subdivision, or identifying title, Zoning District, proposed use, and the name of the municipality in which it is located, plus the Assessors Map and Lot number for all properties contained in the subdivision.
- B.) A field survey of the boundary lines of the tract, giving complete descriptive data by bearing and distance, made and certified by a licensed surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall include the type of monument set or found at each lot corner.
- C.) A copy of any deed restrictions intended to cover all or part of the lots in the Subdivision
- D.) Indication of the type of sewage disposal to be used in the subdivision.
 - 1.) When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District stating the District has the capacity to collect and treat the wastewater shall be provided.
 - 2.) When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analysis, prepared by a Licensed Site Evaluator, shall be provided demonstrating adequate soils for subsurface sewage disposal of each lot. A map showing the location odd all test pits dug on the site shall be submitted.

- E.) Indication of the type of water supply system(s) to be used in the subdivision.

If the water supply is proposed to be from private wells, then statements from the majority of the abutting land owners (on either side of the road, if applicable), a minimum of 4, shall be supplied.

The statement shall include:

- history of water contamination, if any, and
- history of inadequate water yield, if any.

If the Board suspects groundwater problems, then additional statements of water history shall be supplied by the abutting or neighborhood landowners to the Planning Board at the Board selection. If the subdivider cannot supply the above information, a hydrologic study demonstrating that water contamination and supply will not affect the proposed development shall be submitted to the Planning Board.

When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the districts supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.

- F.) The date the plan was prepared, north point, graphic map scale and Zoning District, name and addresses of the record owner, sub divider, and individual or company who prepared the plan, and the names of adjoining property owners
- G.) A copy of the portion of the county Soil Survey covering the subdivision.
- H.) Contour lines at the interval specified by the Planning Board showing elevations in relation to Mean Sea Level (normally 20-foot intervals).
- I.) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan, established by the most current FEMA maps.

SECTION 7. PRELIMINARY PLAN FOR MAJOR SUBDIVISION

A.) PROCEDURE

- 1.) Within 6 months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least 10 days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the

Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

- 2.) All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee as set by the Board of Selectmen, payable by check to the Town of Union-Planning Board Account. In addition, the applicant shall pay a fee of \$200.00 per lot or dwelling unit 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 the balance of the special account is depleted, the applicant shall be required to finance any further consulting services deemed necessary by the Planning Board. Any balance in the account remaining after a final decision on the subdivision application by the Board shall be returned to the applicant.
- 3.) The subdivider, or his/her duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- 4.) Upon Receipt of an application for Preliminary Plan approval of a Major Subdivision, the Board shall notify in writing all owners of abutting property that an application for subdivision approval has been submitted.
- 5.) Within 30 days of receipt of a Preliminary Plan application form and fees, the Board shall notify the applicant in writing whether or not the application is complete and what, if any, additional submissions are required for a complete application.
- 6.) Within seven (7) days of the receipt of a soil erosion and sedimentation control plan as set forth in Section 7. B.2.R., the Board shall forward said application materials to the Knox and Lincoln Soil and Waste Conservation District.
- 7.) The Board may hold a public hearing on the Preliminary Plan application. If the Board decided to hold a public hearing, it shall hold the hearing within 30 days of receipt of a complete application and shall publish notice of the date, time, and place of the hearing a newspaper of general circulation in the municipality at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

The Board shall provide an opportunity for the public to speak at the Preliminary Plan meeting.

- 8.) The board shall; within 30 days of a public hearing, or within 60 days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of the fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify for any conditions or denial.
- 9.) When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

- A.) The specific changes which it will require in the Final Plan;
- B.) The character and extent of the required improvements for which waivers may have been requested and which, in the Boards opinion, may be waived without jeopardy to the public health, safety, and general welfare; and
- C.) The amount of all performances guarantees which it will require as prerequisites to the approval of the Final Plan.

10.) Approval of the Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these Ordinances and the condition of the preliminary approval, if any, including payment of any fees due. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

B.) SUBMISSIONS

- 1.) *Location Map.* The preliminary Plan shall be accompanied by a location map adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
 - A.) Existing subdivisions in the proximity of the proposed subdivision.
 - B.) Locations and names of existing and proposed streets.
 - C.) Boundaries and designations of Zoning Districts.
 - D.) An outline of the proposed subdivision and any remaining portions of the owner's property if the Preliminary Plan submitted covers only a portion of the owners entire contiguous holding.
- 2.) *Preliminary Plan.* The Preliminary Plan shall be submitted in 3 copies or 1 or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals or a foot. The Preliminary Plan shall be drawn to a scale of not more that 100 feet to the inch. The Board may allow plans for subdivisions containing more than 100 acres to be drawn to a scare of not more than 200 feet to the inch, provided all necessary details can easily be read. In addition, 1 copy of the plan reduced to size or 8.5 x 11 inches and all accompanying information shall be provided to the Town of Union no less than 10 days prior to the meeting, the

following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

- A.) Proposed name of the subdivision and the name of the municipality in which it is located, plus the tax assessors map and lot numbers.
- B.) An actual field survey of the boundary lines of the tract, giving complete descriptive data and bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C.) A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-ways, or other encumbrances currently affecting the property.
- D.) A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
- E.) Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level (normally 20 foot intervals).
- F.) The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetation cover types, and other essential existing physical features.
- G.) Indication of the type of sewage disposal to be used in the subdivision.
 - 1.) When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District indicating there is adequate capacity with the District's system to transport and treat the sewage shall be submitted
 - 2.) When sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on site shall be submitted.
- H.) Indication of the type of water supply system(s) to be used in the subdivision.

If the water supply is proposed to be from private wells, then statements from the majority of the abutting landowners (on either side of the road, if applicable), a minimum of four (4), shall be supplied. The statements shall include:

- history of water contamination, if any, and
- history of inadequate water yield, if any.

If the Board suspects groundwater problems, then additional statements of water history shall be supplied by abutting or neighborhood landowners to the Planning Board at the Boards selection.

If the subdivider cannot supply the above information, then a hydrologic study demonstration that water contamination and supply will not affect the proposed development shall be submitted to the Planning Board.

When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indication there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. When the districts supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.

- I.) The date the plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- J.) The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
- K.) The location of any zoning boundaries affecting the subdivision.
- L.) The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property being subdivided.
- M.) The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision.
- N.) The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- O.) The proposed lot lines with approximate dimensions and lot areas.

- P.) All parcels of land proposed to be dedicated to public use and condition of such dedication.
- Q.) The location of any open space to be preserved and an indication of its improvement and management.
- R.) A soil erosion and sedimentation control plan following the contents and standards set forth in the Erosion and Sediment Control and Storm water Managements guidelines on file in the town office.
- S.) A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.
- T.) A copy of that portion of the Knox and Lincoln Soil Survey covering the subdivision. When the medium intensity soil survey shows soil which is generally unsuitable for the use proposed, the Board may require the submittal of a report by a Registered Soil Scientist indication the suitability of soil conditions for those uses.
- U.) If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

SECTION 8. FINAL PLAN FOR MAJOR SUBDIVISION

A.) PROCEDURE

- 1.) The subdivider shall, within 6 months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within 6 months after the Preliminary Plan approval, the Board may refuse without prejudice to act on the Final plan and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- 2.) All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee as set by the Board of Selectmen payable by check to the Town of Union. If a public hearing is deemed necessary by the Board, an additional fee of \$50.00 shall be required to cover the costs of advertising and postal notification.
- 3.) The subdivider, or his/her duly authorized agent, shall attend the meeting of the Board to discuss the Final plan.
- 4.) Upon determination that a complete application has been

submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

- 5.) Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate.
 - Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 - The servicing water utility, if an existing public water service is to be used.
 - Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - The servicing sewer district, if an existing public sewage disposal system is to be used.
 - Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.'
- 6.) A public hearing may be held by the Planning Board within 30 days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least 2 times, the date of the first publication to be at least 7 days before the hearing and the notice of the hearing shall be posted in at least 2 prominent places at least 7 days prior to the hearing

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least 10 days prior to the hearing,
- 7.) The Planning Board shall notify by policy-form letter the Road Commissioner School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial, or industrial buildings. The Planning Board shall request that the Town Officials comment on the proposed subdivision.
- 8.) Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Section 12.

- 9.) If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the plan.
- 10.) The Board, within 30 days from the public or within 60 days of receiving a complete application, if no hearing is held, shall make findings of fact and conclusions relative to the standards contained in Title 30-A MRSA Chapter 187, Subchapter 4, and in these Ordinances. If the Board finds that all standards of the Statue and these Ordinances have been met, they shall approve the Final Plan. If the Board finds that any of the Statue and these Ordinances have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

B.) SUBMISSIONS

The Final Plan shall consist of 1 or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn to a scale of no more than 200 feet to the inch. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of 2 inches outside of the border line on the left side for binding and a 1 inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable-based transparent original, to be recorder at the Registry of Deeds, and 3 copies of the plan shall be submitted, in addition, one copy of the Final Plan, reduced to a size of 8.5 by 11 inches, and all accompanying information shall be mailed to each Board member no less than 7 days prior to the meeting.

The application for approval of the Final Plan shall include the following information:

- Proposed name for the subdivision and the name of the municipality in which it is located, plus the Assessors Map and Lot Numbers.
- The location, names and present widths of existing and proposed streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the angles of curves, tangent distances, and tangent bearings for each street shall be included.
- The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any within the subdivision.

- All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Planning Board members are satisfied with the legal sufficiency of the written offer of cession, shall be included.
- A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipality district. 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 treatments
 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.

- If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

C.) FINAL APPROVAL AND FILING

- 1.) No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plan.
- 2.) Upon finding of fact and determination that all standards in Title 30-A MRSA, Chapter 187, Subchapter 4, and these Ordinances have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The board shall specify in written its findings of facts and reason for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor.

One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within 120 days of the date upon which the plan was approved and signed by the Board shall become null and void.

- 3.) At the time the Board grants Final Plan approval, it may permit the plan to be divided into 2 or more sections, subject to any condition the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into 2 or more sections, subject to any conditions the Board deems necessary in order to allow the orderly planning, financing, and provision of public services to the subdivision. If the superintendent of schools indicated that there is less than 10% excess classroom capacity existing in the school(s) which will serve that subdivision, in considering previously approved, but not yet built, subdivision, the Board shall require the plan to be divided into section to prevent classroom overcrowding.
- 4.) No changes, erasures, modification or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modification, except in accordance with Section 9, A, 3. the Board shall make finding that the revised plan meets the standards of Title 30-A MRSA, Chapter 187, Subchapter 4, and these regulations. In the event that a plan is recorded without complying with these requirements, it shall be considered null and void, and the Board shall institute proceedings to have the plan stripped from the record of the Registry of Deeds.
- 5.) The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, of other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute and acceptance by the municipality of such areas. The Board shall require the filing of a written agreement between the applicant and the Planning Board covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance or any such dedicated area.
- 6.) Failure to commence substantial construction of the subdivision within 2 years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determination that a subdivisions approval has

expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

SECTION 9. ENFORCEMENT

The Subdivider shall, prior to commencing construction, be responsible for coordinating a meeting to be held in the Union Town Office to which to Code Enforcement Officer, the Road Commissioner, and representatives of all utilities, water and sanitary district shall be invited to attend. The subdivider shall present the construction program and schedule to those present at that meeting.

A.) INSPECTION OF REQUIRED IMPROVEMENTS:

- 1) At least 5 days prior to commencing each major phase of construction or required improvements, the subdivider of builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specification and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- 2) If the inspecting official finds upon inspection of the improvements that any of the 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, who 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 modification 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 plan shall be filed with the Town. For major modification, such as relocation of rights-of-ways, property boundaries, changes of grade by more than one percent, etc., the subdivider shall obtain permission to modify the plans from the Board.
- 4) Prior to the sale of any lots, the subdivider shall provide the Board with a letter from the Registered Land Surveyor, stating that all monumentation shown on the Plan has been installed.
- 5) Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a Town meeting, a written certification signed by a professional; engineer registered in the State of Maine

shall be submitted to the Municipal Officers, at the expense of the applicant, certifying that the proposed town 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.

- 6) The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

B.) VIOLATIONS AND ENFORCEMENT

- 1.) A 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 these regulations.
- 2.) No person, firm, corporation, or other legal entity may convey, offer, or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- 3.) No person, firm or cooperation or other legal entity may convey, offer, or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- 4.) Any person, firm, cooperation, or other legal entity who conveys, offers, or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100.00 and not more than \$2,500.00 for each such conveyance, offering, or agreement. The municipality may institute proceedings to enjoin the violation of this Section, and may collect attorneys fees and court cost if it is the prevailing party.
- 5.) 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.
- 6.) Development of a subdivision without Board approval shall be a violation of the law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- 7.) No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lots front 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 10 GENERAL STANDARDS (MAJOR AND MINOR)

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings in writing 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.

A.) CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent State and local codes and ordinances.

B.) RETENTION OF OPEN SPACES AND NATURAL OR HISTORIC FEATURES

- 1.) In any subdivision larger than 35 acres, or more than 20 lots or dwelling units, the developer shall provide up to 10% of his total area as open space. In any subdivision of 35 acres or less, the Board shall request the developer to provide up to 10% of his total area as open space. The developer may instead make a payment-in-lieu-of dedication into a municipal land acquisition fund.
- 2.) Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposed, 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. Sites selected primarily for scenic or passive recreation purposed shall have such access as the Board may deem suitable and no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserves, together with sufficient areas for trails, look outs, etc. where necessary and appropriate.
- 3.) Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- 4.) Land reservation shall be calculated on a basis of 1300 square feet per dwelling units proposed, or 10 acres per 100 dwelling units. Where land is not suitable or is insufficient in amount, a payment-in-lieu-of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal Tax Assessor, and deposited into a land acquisition or improvement fund.

- 5.) The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24 inches in diameter breast height the replacement of trees and vegetation, graded contour, streams, and the preservation of scenic, historic, or environmental significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible to retain a natural wind buffer.

C.) LOTS

- 1.) Lots shall meet the minimum requirements of the Land Use Ordinance for the zoning district in which they are located. Additionally, lots of a subdivision within the Rural Zone having frontage on the St. George River shall have such shore frontage and lot depth as to meet the standards of Title 30-A MRSA, Chapter 187, Subchapter 4. Lot configuration should be designed to maximize use of solar energy on building sites.
- 2.) Lots with multiple frontages shall be avoided whenever possible. When lots do have frontages on two or more roads, the Plan and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
- 3.) Wherever possible, side lot lines shall be perpendicular to the street.
- 4.) 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 provided for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extension of utilities.
- 5.) If a lot on one side of a stream, 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 or road to meet the minimum lot size.
- 6.) The ratio of lot length to width shall not be more than three to one (3:1).

D.) UTILITIES

- 1.) Utilities shall be installed underground except as otherwise approved by the Board.
- 2.) Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- 3.) The size, type, and location of the street lights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

E.) REQUIRED IMPROVEMENTS

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

1.) MONUMENTS

- A.) Iron monuments shall be set at all street intersection and points of curvature but no further than 750 feet apart along street lines without curves or intersections.
- B.) Iron monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundary is 135 degrees or less.
- C.) Iron monuments shall be a minimum of 5/8 inch diameter and 4 feet in length and set in the ground at final grade level.
- D.) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation.

2.) WATER SUPPLY

- A.) When a subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.
 - The subdivider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities, or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.
 - The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.
- B.) When the location of a subdivision does not allow for a financially reasonable connection to a public water supply system, the Planning

Board may allow to use of individual wells or a private community water system.

- Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restrictions and a note on the Plan.
- If a central water supply system is provided by the subdivider, the location and protection of the source and the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.
- The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary.

3.) SEWAGE DISPOSAL

Public System

- A.) A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within one thousand (1000) feet of the proposed subdivision at its nearest point.
- B.) The sewer district shall review and approve in writing the construction drawings for the sewage system.

4.) SURFACE DRAINAGE

- A.) Where a subdivision is traversed by a stream, river, or surface water drainage way or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements of drainage rights-of-way of swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.
- B.) Drainage easements for existing water courses or proposed drainage ways shall be provided and indicated on the plan at least thirty (30) feet wide, conforming substantially with the lines of existing natural drainage.

C.) The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage, or runoff problems within the subdivision or in other properties. Where the peak runoff from the subdivision onto other properties is increased either in volume or duration, easements from the abutting property owners, allowing such additional discharge, shall be obtained.

D.) A storm water drainage plan showing ditching, culverts, storm drain, easements, and other proposed improvements meeting the standards of Section 11 shall be submitted.

F.) LAND FEATURES

- 1.) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking area, and building excavations.
- 2.) Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

G.) CLUSTER DEVELOPMENT

1.) PURPOSE

The purpose of these provisions is to allow for innovative concept of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the Zoning District in which the development is proposed. To this end, the layout and dimensional requirements of the Zoning Ordinance may be altered without restriction except height limitations.

2.) BASIC REQUIREMENTS

- A.) All the requirements and standards of these Ordinances, except those dealing with lot layout and dimensions, shall be met.
- B.) The minimum area of land in a cluster development shall be ten (10) acres, except where there is public water and sewer.
- C.) The plan shall indicate the location of all proposed roads, structures, Parking areas, footpaths, and common open space.

- D.) No building shall be constructed on soil types classified by the S.C.S as being poorly or very poorly drained.
- E.) Where a cluster development abuts a water body, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.
- F.) In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a common water supply and distribution system, either public or private.
- G.) In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system.
- H.) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south facing slopes, and natural drainage areas, in accordance with and overall plan for site development and landscaping.

H.) DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND SERVICES

- 1.) All common land shall be owned jointly or in common and undivided by the owners of the dwelling units by means of a homeowners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
- 2.) Further subdivisions of the common land or its use for other than non-commercial, recreation, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial, recreation, or conservation uses may be erected on the common land.
- 3.) The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - It shall not be used for future building lots, and
 - A part or all of the common space may be dedicated for acceptance by the municipality.
- 4.) If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

- 5.) Covenants for mandatory membership in the homeowners association setting forth the owners rights, interest, and privileges in the association and the common property shall be reviewed by the Board and included in the deed for each lot or dwelling.
- 6.) The homeowners association shall have responsibility of maintaining the common property.
- 7.) The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
- 8.) The developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.

I.) CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the Plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation, and all construction must conform to Article 8 of Floodplain Management Ordinances enacted March 9, 1987, or current updates. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

SECTION 11. STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS.

A.) GENERAL REQUIREMENTS

- 1.) The Board shall not approve any subdivision plan unless proposed streets and storm water management systems 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.
- 2.) Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a land view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:

- Date, scale, and magnetic true north point.
 - Intersections of the proposed street with existing streets.
 - Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - 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.
 - Complete curve data shall be indicated for all horizontal and vertical curves.
 - Turning radii at all intersections.
 - Center line gradients.
 - Locations of all existing and proposed overhead and underground utilities to include, but not be limited to, water, sewer, electricity, telephone, lighting, and cable vision.
- 3.) Upon receipt of plans for a proposed public street, the Board shall forward one (1) copy to the Municipal Officers and one (1) copy to the Road Commissioner for review and comment. Plans for street which are not proposed to be accepted by the municipality shall be sent to the Municipal Officers for review and comment.

B.) STREET DESIGN STANDARDS

- 1.) These design standards shall be met by all streets within subdivisions and shall control the roadways, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
- 2.) Streets shall be designed to discourage through traffic within a residential subdivision.
- 3.) Wherever existing or other proposed streets, topography, and public safety permit, streets shall run in east-west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.
- 4.) Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.

- 5.) Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these Ordinances) or when the Comprehensive Plan indicated plans for realignment or widening of a road that would require use of some of the land in the subdivision, the Plan shall indicate reserves areas for widening or realigning the road marked “Reserved for Road Realignment and Paving (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 indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- 6.) Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the arterial street.
- 7.) The following design standards apply according to street classification:

Description	Type of Street			
	Arterial	Collector	Minor	Private
Minimum right of way	50'	50'	50'	50'
Minimum sidewalk width	4'	4'	4'	N/A
Road width	24'	24'	20'	12'
Minimum grade	0.5%	0.5%	0.5%	N/A
Maximum grade	5%	6%	8%	10%
Minimum centerline radius	230'	230'	150'	N/A
Minimum tangent between curves or reverse realignment	200'	200'	100'	N/A
Roadway crown	1/4" feet	1/4" feet	1/4" feet	N/A
Minimum angle of street intersections	90 degrees	90 degrees	90 degrees	90 degrees
Maximum grade within 75 feet of intersection	2%	2%	2%	N/A
Minimum curb radii at intersections	30'	20'	15'	N/A
Minimum right-of-way radii at intersections	20'	10'	10'	10'
Minimum width of shoulders (each side)	3'	3'	3'	3'

- 8.) The centerline of the roadway shall be the centerline of the right-of-way.
- 9.) Dead-end Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turnaround with the following requirements for radii: the property line 65 feet; outer edge of pavement 50'. The Board may require the creation of a twenty (20) 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 fifty (50) foot easement in line with the street to provide continuation of the road where future subdivision is possible.
- 10.) Grades, Intersections, and Sight Distances.

- Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.
- Where new street intersections or driveway curb-cuts are proposed, sight distances, as measures along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below:

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A Minimum distance of two hundred (200) feet shall be maintained between center lines of side streets.

- 11.) Where installed, sidewalks shall meet these minimum requirements:

A.) Bituminous Sidewalks:

- 1.) The gravel aggregate sub-base course shall be no less than twelve (12) inches thick.
- 2.) The crushed aggregate base course shall be no less than two (2) inches thick.
- 3.) The hot bituminous pavement surface course shall be no less than two (2) inches after compaction.

B.) Portland Cement Concrete Sidewalks

- 1.) The sand base shall be no less than six (6) inches thick
 - 2.) The Portland Cement concrete shall be reinforced with six (6) inch square, number ten (10) wire mesh, and shall be no less than four (4) inches thick.
- 12.) Where installed, curbing shall be granite, concrete, or bituminous concrete and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness. The specified pavement width above shall be measured between the curbs.

C:) STREET CONSTRUCTION STANDARDS

- 1.) Minimum thickness of material after compaction:

Street Materials	Minimum Requirements			
	Arterial	Collector	Minor	Private
Aggregate sub-base course (maximum size stone-4")	18"	18"	18"	12"
Crushed aggregate base course	4"	3"	3"	3"
Hot bituminous pavement:				
Total thickness	3"	3"	3"	N/A
Surface course	1"	1"	1"	N/A
Base course	2"	2"	2"	N/A

- 2.) Preparation.

- A) 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 (50) foot intervals.
- B) Before grading is started, the entire right-of-way, other than trees

and vegetation intended for preservation, shall be cleared of all stumps, roots, brush, and other objectionable materials. All ledge, large boulders, and tree stumps shall be removed from roadway.

- 3.) All organic materials shall be removed to a depth of two (2) feet below the sub grade of the roadway. Rocks, ledge, and boulders shall also be removed to a depth of two (2) feet below the sub grade of the roadways. On soil which has been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two (2) feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below.
- 4.) Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
- 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.
- 6.) Bases and pavement.

A.) Bases.

The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or bails of clay and other deleterious substances.

B.) 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.

C.) Curbs and Gutters.

1. Street curbs and gutters shall be installed as required by the Board.
2. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

D.) Pavements.

1. Minimum standards for the base layer of pavement shall be the M.D.O.T specifications for plant mix grade C with an aggregate size of no more than one (1) inch maximum.

2. Minimum standards for the surface layer of pavement shall meet the M.D.O.T specifications for plant mix grade C with an aggregate size of no more than $\frac{3}{4}$ inch maximum.

D:) STORM WATER MANAGEMENT DESIGN STANDARDS

- 1.) Adequate provisions shall be made for disposal of all storm water generated within the subdivision and any drained ground water through a managements system of swales, culverts, under drain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.
 - All components of the storm water management system shall be designed to meet the criteria of a twenty-five (25) year storm based on rainfall data for West Rockport, Maine.
 - The minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material containing no stones larger than three (3) inches, lumps of clay, or organic matter reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe.
 - Catch basins shall be installed where necessary
 - Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.
- 2.) The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built, and shall include a surplus design capacity factor of twenty-five percent (25%) for potential increases in upstream runoff.
- 3.) Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

- 4.) Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- 5.) Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

E:) STORM DRAINAGE CONTRUCTION STANDARDS

1.) MATERIALS

- Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTOM 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of rubber gaskets type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as “Ramnek”. Perforated Concrete Pipe shall conform to the requirements of ASSHTOM 175 for the appropriate diameters.
- Corrugated Metal Pipe shall be meeting the requirements of AASHTOM Designation M 190 Type C for iron or steel pipe of AASHTOM Designation M 196 for aluminum alloy pipe for sectional dimensions and type, Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five percent (5%).
- ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTOM M 264 and AASHTOM M 265. Perforated pipe shall conform to the requirements of AASHTOM M 36, Type 111.
- Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252
- Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28-day strength concrete or may be precast concrete placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTOM M 103 for carbon steel castings, AASHTOM M 105, Class 30, for grey iron castings,

or AASHTOM M 183 (ASTM A 283, Grade B or better) for structural steel.

- Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000 psi 28-day strength concrete or may be or precast concrete placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTOM M 103 for carbon steel castings, AASHTOM M 105, Class 30, for grey iron castings, or AASHTOM M 183 (ASTM A 283, Grade B or better) for structural steel.
- 2.) Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Officer.
- 3.) Manholes shall be provided at all changes in vertical and horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
- 4.) Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter and shall be kept clear until final acceptance.

F:) ADDITIONAL IMPROVEMENTS AND REQUIREMENTS

- Erosion Control.
The procedures outlined in the erosion and sedimentation control plan shall be implemented during the sites preparation, construction, and clean-up stages.
- Cleanup.
Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and other debris is proposed, the site shall be indicated on the plan and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
- Street Names, Signs, and Lighting.
Street 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 resemblances 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 developers shall reimburse the municipality for the costs of installing street name and traffic safety and control signs. Street lighting shall be installed as approved by the Board.

G:) CERTIFICATION OF CONSTRUCTION

Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Municipal officers.

SECTION 12. PERFORMANCE GUARANTEES

- A.) *Types of Guarantees.* With submittal of the application for Final Plan approval, to the subdivider shall 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 the construction costs.
- 1.) Either a certified check payable to the Town or a savings account, or certificate of deposit naming the town as owner of the establishment of an escrow account;
 - 2.) A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers;
 - 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, approved by the Municipal Officers; or
 - 4.) An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The condition and mount of the Performance Guarantee shall be determined by the Board.

- 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 or all of the performance guarantee to the developer, and the date after

which the developer will be in default and the Town shall have access to the funds to finish construction.

- C.) *Escrow Account.* A cash contribution to the establishment of an escrow account 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 condition 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 established for the construction of the subdivision and may not be used for any other project or loan.
- F.) *Phasing 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 whatever 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 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 plan 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.) *Private Roads.* 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.”

- J.) *Improvements Guarantee.* Performance guarantees shall be tendered for all improvements required by Section 10.7 of these regulations, as well as any other improvements required by the Board.

SECTION 13. WAIVERS

- A.) Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements of the standards, unless otherwise indicated in the regulation, to permit a more practical and economical development, provided the public health safety and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purposed of the Comprehensive Plan, the Land Use Ordinance, or these Ordinances.
- B.) Where the Board makes written findings of fact that, due to special circumstances of a particular lot proposed to be subdivided, the provisions of certain required improvements are not requisite to provide for the public health, safety, or welfare of 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.
- C.) In granting waivers to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of these Ordinances are met.

SECTION 14. APPEALS

- A.) An aggrieved party may appeal any decision of the Board under these Ordinances to Know County Superior Court.

SECTION 15. DEVELOPMENT IMPACT FEES

The Planning Board may require the applicant to participate in municipal infrastructure improvements. Where it appears that the proposed development will result in a negative impact or decline in the level of service of any existing municipal infrastructure system or service, the Planning Board shall assess and establish the applicants level of participation in the improvement of that system or service. This will apply to a major subdivision or any developer who creates four or more lots in any one year.

- A.) *Conducting the Assessment.* In conducting the assessment, the Planning Board shall consider the following:

- 1.) The status of the system and service in the Comprehensive Plan and capital improvement program relative to any planned improvements and scheduling.
 - 2.) The net effect of the proposed development on the capacity of the infrastructure, indicating the percentage share caused by the developer.
 - 3.) A cost estimate for improvement of this infrastructure so as to meet the increased demand, and a breakdown of the applicant's share of that cost.
 - 4.) An assessment of municipal water and sewer system improvements provided by the appropriate agencies.
- B.) *Improvement Responsibilities.* As soon as the applicant's share of infrastructure impact has been established by the Planning Board, the Board shall select the method in which the applicant must participate in the infrastructure improvement. The following alternatives are available:
- 1.) The applicant must agree to make the necessary infrastructure improvements, establish a construction schedule, and post a performance guarantee to cover all associated cost; the applicant may recover the improvement cost within 10 years after the improvements are made. For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the site plan or subdivision review process. In arriving at the appropriate cost share for subsequent development, the same process must be used.
 - 2.) The Town must agree to complete the improvements. The applicant shall pay the required share of cost to the Town at the time of approval on the Final Plan, which shall be held in reserve fund until the improvement is complete in accordance as scheduled in the capital improvement of the Town. If the improvement is not completed within 10 years, the fee, plus interest, must be returned to the applicant.
- C.) *Community Facilities Impact Analysis.* The planning Board shall require the applicant to conduct a community facilities impact analysis which will consider the following demographic features:
- 1.) Demographic Description. The analysis must identify the demographic market the project intends to serve, including:
 - a.) type of family;
 - b.) average family size;

- c.) numbers and ages of children;
- d.) anticipated time period to fill all units or lots.

Associated data, such as anticipated income levels, type of employment, and projected housing cost may also be presented to support projections associated with the above demographic description. If transfers from existing Town families and homes are expected, the impact on the secondary market must be projected. The basis for all projections must be provided.

- 2.) Community Facilities Impact Analysis. Utilizing the above demographic data, the applicant shall conduct analysis of the following:
 - a.) Estimated impact on the sewage disposal system, including flow estimates and assessment of capacity;
 - b.) Estimated impact on the water system, including flow estimates and assessment of existing or potential water pressure;
 - c.) Estimated impact of traffic systems, including the impact of projected trips on flow characteristics and the impact of traffic on the immediate, existing road structures.
 - d.) Estimated impact on school system;
 - e.) Estimated impact on public safety factors;
 - f.) Estimated impact on public works department, including solid waste disposal;
 - g.) Estimated impact on existing storm water management systems, including flow and water quality;
 - h.) Estimated impact on the recreation resources and provisions to methods to meet proposed needs;
 - i.) Any other study deemed appropriate by the Planning Board.

Once these analysis have been completed, the applicant shall present appropriate projections and impact assessments to the appropriate Town agency for review and comment.

TOWN OF UNION
Office of Selectmen
Union, Maine

CERTIFICATION


We the undersigned Board of Selectmen, hereby certify the proposed amendments to the ordinance entitled "Town of Union Subdivision Ordinance", to be voted upon by the Town of Union's voters on June 15, 2015.

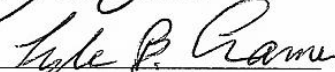
Given unto our hands the 17 Day of MARCH 2015

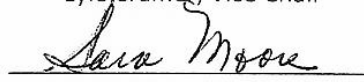
UNION BOARD OF SELECTMEN


Gregory Grotton, Chairman

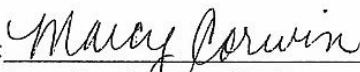
Elmer Savage


James Justice


Lyle Cramer, Vice Chair


Sara Moore

ATTEST: A true copy of an ordinance entitled "Town of Union Subdivision Ordinance" as amended certified to be by the Municipal Officers of Union, Maine on the 17 day of March 2015.

Signature: 
Marcy Corwin, Town Clerk

Town of Union Land Use Ordinance



A True Copy Attest

Stacey M. Y. Parra
Union Town Clerk
Date: _____

Amended June 15, 2015
Amended June 19, 2017 – Changeable Signs
Amended June 17, 2019 – Shoreland Zoning Map

Town of Union Land Use Ordinance 06/17/2019

Table of Contents			
Article	Section	Title	Page
1	--	LAND USE PROVISIONS	7
1	1	Authority	7
1	2	Purpose	7
1	3	Applicability	7
1	4	Conflict with other ordinances	7
1	5	Amendments	7
1	6	Effective Date	8
1	7	Separability	9
1	8	Districts and Land Use Maps	9
1	8.1	Establishment of Districts	9
1	8.2	Land Use Maps - Certified Land Use Map	11
1	8.3	Resolution of District Boundaries	14
1	9	Nonconformance	14
1	9.1	Purpose	14
1	9.2	Definitions	14
1	9.3	Nonconforming Lots	14
1	9.4	Nonconforming Structures	15
1	9.5	Nonconforming Uses	16
1	9.6	Transfer of Ownership	16
1	10	Land Use Regulations	16
1	10.1	Allowable Land Uses	16
1	10.2	Dimensional Requirements	21
1	10.3	Land Use Standards	22
1	10.3.1	Purpose	22
1	10.3.2	Accessory Buildings	22
1	10.3.3	Automobile Fueling Services	22
1	10.3.4	Boarding House, Boarding Care Facility, Elderly Housing Facility, Assisted Living Facility	22
1	10.3.5	Campgrounds	23
1	10.3.6	Commercial Complex	23
1	10.3.7	Convalescent Homes	23
1	10.3.8	Dwellings	23
1	10.3.9	Group Homes/Boarding Homes	25
1	10.3.10	Excavation, Processing, and Storage of Soil, Loam, Sand and Gravel	25
1	10.3.11	Commercial Mineral Extraction	26
1	10.3.12	Home Occupations	30
1	10.3.13	Industrial District Uses	31
1	10.3.14	Junkyards / Automobile Graveyards / Automobile Recycling	31
1	10.3.15	Manufacturing, Warehousing, Research Facilities	31
1	10.3.16	Municipal Solid Waste Transfer Facility	31
1	10.3.17	Nursing and Convalescent Homes	31
1	10.3.18	Office Buildings	31

Town of Union Land Use Ordinance 06/17/2019

Table of Contents			
Article	Section	Title	Page
1	10.3.19	On-Site Sale of Products	31
1	10.3.20	Printing/Publishing	32
1	10.3.21	Public Buildings	32
1	10.3.22	Public Utility Buildings	32
1	10.3.23	Refuse Disposal Facilities	32
1	10.3.24	Restaurants, Motels, Outdoor Sales and Storage	32
1	10.3.25	Retail and Wholesale Business, Services, Business and Professional Offices, and Commercial Outdoor Recreation	33
1	10.3.26	Schools, Public and Private; Semi-Public Buildings; Churches and Other Religious Facilities; and Cemeteries	33
1	10.3.27	Signs	33
1	10.3.28	Cluster Development	35
1	10.3.29	Tire Storage	36
1	10.3.30	Wind Energy Facilities	38
1	10.4	Off-Street Parking and Loading Standards	39
1	10.4.1	Applicability	39
1	10.4.2	Off-Street Parking Standards (Residential)	39
1	10.4.3	Off-Street Parking Standards (Non-Residential)	39
1	10.5	Traffic Visibility	42
1	10.6	Lighting	43
1	10.7	Noise	43
1	10.8	Dust, Fumes, Vapors, Gases, and Odors	44
1	10.9	Access Management Standards	44
1	11	Environmental Regulations	52
1	11.1	Suitability of Soils	52
1	11.2	Land Not Suitable for Development	52
1	11.3	High Elevation Overlay District	52
1	11.4	Control of Erosion	53
1	11.5	Water Quality	53
1	11.6	Clearcutting	54
1	12	Administration	54
1	12.1	General	54
1	12.2	Applicability	54
1	12.3	Role of Code Enforcement Officer	54
1	12.4	Planning Board	55
1	12.5	Zoning Board of Appeals	57
1	12.6	Permits	63
1	12.7	Appeals	66
1	12.8	Enforcement	66
2	--	SITE PLAN REVIEW PROVISIONS	67
2	1	Purpose	67
2	2.2	Authority and Administration	67

Table of Contents			
Article	Section	Title	Page
2	3	Applicability	68
2	4	Review Procedure	68
2	5	Review Criteria and Performance Standards	70
2	6	Validity, Severability And Conflicts with Other Ordinances	74
2	7	Appeals	74
2	8	Incorporation of the Union Land Use Ordinance	74
3	--	WIRELESS TELECOMMUNICATION FACILITY PROVISIONS	75
3	1	Authority	75
3	2	Purpose and Intent	75
3	3	Applicability	75
3	4	Review and Approval Authority	76
3	4.1	Expansion of an Existing Facility and Co-Location	76
3	4.2	New Construction	76
3	5	Approval Process	77
3	5.1	Application	77
3	5.2	Submission Requirements for CEO Approval	77
3	5.3	Submission Requirements for Planning Board Approval	78
3	5.4	Submission Waiver	81
3	5.5	Fees	81
3	5.6	Public Hearing	82
3	5.7	Approval	82
3	6	Site Restrictions	82
3	7	Standards of Review	83
3	7.1	CEO Approval Standards	83
3	7.2	Planning Board Approval Standards	83
3	7.3	Standard Conditions of Approval	86
3	8	Amendment to an Approved Application	87
3	9	Damage	87
3	10	Abandonment	87
3	11	Appeals	88
3	12	Enforcement	88
3	13	Conflict With Other Ordinances	88
3	14	Designated Scenic Resources	88
4		SHORELAND ZONING PROVISIONS	91
4	1	Purposes	91
4	2	Authority	91
4	3	Applicability	91
4	4	Effective Date	91
4	4.1	Effective Date of Ordinance and Ordinance Amendments	91
4	4.2	Repeal of Municipal Timber Harvesting Regulation	91
4	5	Availability	92

Town of Union Land Use Ordinance 06/17/2019

Table of Contents			
Article	Section	Title	Page
4	6	Severability	92
4	7	Conflicts with Other Ordinances	92
4	8	Amendments	92
4	9	Districts and Zoning Map	92
4	9.1	Official Shoreland Zoning Map Description	92
4	9.2	Scale of Map	93
4	9.3	Certification of Official Shoreland Zoning Map	93
4	9.4	Changes to the Official Shoreland Zoning Map	93
4	--	Copy of Certified Official Shoreland Zoning Map	94
4	10	Interpretation of District Boundaries	95
4	11	Land Use Requirements	95
4	12	Non-conformance	95
4	12.1	Purpose	95
4	12.2	General	95
4	12.3	Non-conforming Structures	95
4	12.4	Non-conforming Uses	99
4	12.5	Non-conforming Lots	99
4	13	Establishment of Districts	100
4	13.1	Resource Protection District	100
4	13.2	Limited Residential District	101
4	13.3	Limited Commercial District	101
4	13.4	Stream Protection District	101
4	14	Table of Land Uses	102
4	15	Land Use Standards	104
4	15.1	Minimum Lot Standards	104
4	15.2	Principal and Accessory Structures	105
4	15.3	Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water body or Within a Wetland	107
4	15.4	Campgrounds	108
4	15.5	Individual Private Campsites	108
4	15.6	Commercial and Industrial Uses	109
4	15.7	Parking Areas	109
4	15.8	Roads and Driveways	110
4	15.9	Signs	112
4	15.10	Storm Water Runoff	112
4	15.11	Septic Waste Disposal	113
4	15.12	Essential Services	113
4	15.13	Mineral Exploration and Extraction	113
4	15.14	Agriculture	114
4	15.15	Timber Harvesting	115

Town of Union Land Use Ordinance 06/17/2019

Table of Contents			
Article	Section	Title	Page
4	15.16	Clearing or Removal of Vegetation for Activities Other than Timber Harvesting	117
4	15.17	Erosion and Sedimentation Control	119
4	15.18	Soils	120
4	15.19	Water Quality	121
4	15.20	Archaeological Site	121
4	16	Administration	121
4	16.1	Administering Bodies and Agents	121
4	16.2	Permits Required	121
4	16.3	Permit Application	122
4	16.4	Procedure for Administering Permits	122
4	16.5	Special Exceptions	123
4	16.6	Expiration of Permit	124
4	16.7	Installation of Public Utility Service	124
4	16.8	Appeals	124
4	16.9	Enforcement	128
4	17	Descriptions for the Official Zoning Map	129
4	18	Significant rivers segments identified	134
5		RESERVED FOR FUTURE USE	
6		RESERVED FOR FUTURE USE	
7		RESERVED FOR FUTURE USE	
8		RESERVED FOR FUTURE USE	
9		RESERVED FOR FUTURE USE	
10		RESERVED FOR FUTURE USE	
11	--	DEFINITIONS	136

ARTICLE 1: LAND USE PROVISIONS

1.1. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, and the provisions of 30-A M.R.S.A. Section 2101 (Home Rule) and 30-A M.R.S.A. Section 3001 (Ordinance Power.)

1.2. PURPOSE

This Ordinance is designed for all the purposes of planning and land use regulation embraced in the Maine Revised Statutes Annotated, including to protect the health, safety, and general welfare of the residents of Union, to encourage the most appropriate use of land throughout the Town, to promote traffic safety, to provide safety from fire and other elements, to conserve natural resources, and to implement the provisions of the Union Comprehensive Plan.

1.3. APPLICABILITY

This Ordinance applies to all land and land uses within the Town of Union.

1.4. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance conflict with the requirements of any other lawfully- adopted rule, regulation, ordinance, or statute, the more restrictive or that imposing the higher standard shall govern.

1.5. AMENDMENTS

1.5.1. Scope

This section in no way supersedes the right of initiative and referendum granted by 30-A M.R.S.A. Section 2528.

1.5.2. Methods for Proposing Amendments

Amendments to this Ordinance shall be considered following petition, motion of the Planning Board, or motion of the Selectmen. All proposals for amendment of the Land Use Ordinance shall contain the recommendations (whether for or against) of the Planning Board.

1.5.3. Planning Board Review of Petitions

Upon receiving a proposed amendment, the Town Clerk shall notify the Planning Board Chairperson within five (5) working days. The Planning Board, at its next regular or special meeting following notification from the Town Clerk, shall determine whether the proposed amendment is consistent with the Comprehensive Plan of the Town of Union. The Board shall indicate, within thirty (30) days, in a written decision, whether a proposed amendment would be consistent with the Comprehensive Plan. The decision of the Planning Board may be appealed to the Board of Appeals within thirty (30) days of the Planning Board's decision.

1.5.4. Reconciliation with Comprehensive Plan

If the Planning Board finds the proposed amendment to be inconsistent with the Comprehensive Plan, unless overruled by the Board of Appeals or the Superior Court, such article shall not be considered by the Town Meeting until the Comprehensive Plan shall be

amended in such a manner that the proposed Land Use Ordinance amendment would be consistent with the amended Comprehensive Plan. The Town may consider the proposed Land Use Ordinance amendment and the proposed amendment to the Comprehensive Plan simultaneously.

1.5.5. First Public Hearing

The Planning Board shall hold a public hearing on the proposed amendment, consistent with the provisions of 30-A M.R.S.A. Chapter 187, Section 4352.

1.5.6. Second Public Hearing

No less than ten (10) days prior to an election or Town Meeting, the Selectmen shall hold a public hearing on the proposed amendment to the Land Use Ordinance. The proposed amendment shall be attested and posted in the manner provided for Town Meetings, not less than seven (7) days prior to the scheduled hearing. In addition, public notice shall be published twice in a newspaper of general circulation in the Town of Union. The date of the first publication shall be at least seven (7) days prior to the date of the public hearing. Following the public hearing, the Selectmen shall submit the proposed amendment to the voters at either the election or the Town Meeting.

1.5.7. Public Access to Proposed Amendments

One copy of the proposed amendment shall be certified by the municipal officers to the Town Clerk at least seven (7) days prior to the day of the election or Town Meeting, to be preserved as a public record, and copies shall be available at that time for distribution to the voters by the Town Clerk, as well as at the time of the Town Meeting.

The subject matter of the proposed amendment shall be reduced to the question:

"Shall an Ordinance or Amendment entitled _____ be enacted?"

The amended ordinance shall be on file with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to any member of the public, at a reasonable cost, at the expense of the person making the request. Notice of availability of the amended ordinance shall be posted.

1.5.8 Amendment to Fix the Boundaries of an Industrial District

An application for a land use that includes establishment of an Industrial District with specific bounds, in accordance with the provisions of 1.8.1.3, shall first be submitted to the Planning Board which shall determine, under this ordinance and in accordance with the procedures specified in the Site Plan Review Ordinance, whether the application meets the requirements for uses in an Industrial District. Upon a positive determination to this effect, an amendment to establish an Industrial District with fixed boundaries consistent with 1.8.1.3 may be submitted by petition of the applicant and shall be processed as specified in 1.5.

1.6. EFFECTIVE DATE

This Land Use Ordinance shall be enacted and be of full force and effect on the day following the date of approval of this Ordinance by the voters of the Town of Union, and any Land Use

Ordinance of the Town of Union in effect prior to the date of enactment of this Land Use Ordinance shall be repealed as of that date.

1.7. SEPARABILITY

In the event that any section, subsection, or provision of this Ordinance is declared invalid for any reason by any competent court, or is not adopted by the voters of the Town, such a decision shall not affect the validity of any other section, subsection, or provision of this Ordinance.

1.8. DISTRICTS AND LAND USE MAPS

1.8.1. Establishment of Districts

For the purpose of the provisions in this Ordinance, the Town of Union is hereby divided into the following districts.

1.8.1.1. Village District

1.8.1.1.1. Boundaries

On the west side of Ayer Hill Road and Depot Street: from the St George River to the northern boundary of Map 8 Lot 54, extending northwest (away from Ayer Hill Road and Depot Street) as far as Map 8 Lot 51 (the Union Fairgrounds property); from the northern boundary of Map 8 Lot 54 to the Common Road, extending northwest to the closer of either the St. George River or an extension of the southeast boundary of Map 8 Lot 51 to the St. George River.

On the south side of the Common Road: from Depot Street to the Fairgrounds Lane, extending 250ft back from the centerline of the Common Road right-of-way; and from Depot Street to South Union Road, extending 250 ft back from the centerline of the Common Road right-of-way.

On the west side of South Union Road: the entirety of Map 6 Lot 16 (the Union Town Office property.)

On the east side of Ayer Hill Road and Depot Street: from the St. George River and Seven Tree Pond to the Common Road, extending eastward to the closer of a line 250 ft east of the center of the Depot Street right-of-way or Seven Tree Pond.

On the north side of the Common Road:

All of the area west of the Townhouse Road and south of a line 500ft south of the center of the Heald Highway right-of-way (this line marks the southern extent of the Commercial District specified in 1.8.1.3)

All of the area east of the Townhouse Road and south of Map 25 Lot 7, to the eastern boundary of Map 25 Lot 1

All of the area east of Map 25 Lot 1 extending back a distance of 250 ft from the centerline of the Common Road right-of-way to the Heald Highway and South Union Road.

1.8.1.1.2. Purpose

To protect existing residential and small-business development, and to encourage compatible future development; to preserve and protect historical and cultural structures and sites in the Union Common area; to provide for orderly business expansion and renovation while maintaining the present village character expressed as a goal in the Town of Union Comprehensive Plan and in the associated Town of Union citizen survey.

1.8.1.2. Commercial District

1.8.1.2.1. Boundaries

On the north side of the Heald Highway: extending northward from the highway for a distance of 500 ft from the center of the right-of-way, and from the western boundary of Map 8 Lot 41 (the Union Agway property) to the eastern boundary of Map 27 Lot 11 (the Damariscotta Bank and Trust Company property.)

On the south side of the Heald Highway:

Extending southward from the highway for a distance of 500 ft from the center of the right-of-way, and from the western boundary of Map 8 Lot 40 (the B.M. Clark Co. property) to the Townhouse Road Extending southward from the highway to the southern boundary of Map 25 Lot 7, and from the Townhouse Road to the eastern boundary of Map 25 Lot 7.

On both sides of the Common Road: extending back a distance of 500 feet from the Common Road centerline, and from the Heald Highway to the centerline of the Fairgrounds Lane (including the extension of the centerline across the Common Road.)

1.8.1.2.2. Purpose

To promote the establishment, nurturing and growth of highway-based commercial enterprises along the Town's major throughway, in a district that allows regulations appropriate to larger-scale commercial activities than might be acceptable in the Rural District, without compromising the regulation of the surrounding Rural District.

1.8.1.3. Floating Industrial District

1.8.1.3.1. Boundaries

The Industrial District is established in this Revision 16 as a floating district with to-be-defined boundaries, within a larger sector whose boundaries are described herein. The actual boundaries of the Industrial District within this larger sector are to be fixed by future amendments to this ordinance, after a developer or other applicant with standing identifies a suitable parcel within the sector bounds and submits a request for rezoning of the parcel in accordance with the procedure specified in 1.5.8. Until such time, the sector is part of the Rural District and is governed by the regulations in the Rural District.

The sector within which an Industrial District may be established consists of the following parcels as they exist as of the date of this ordinance: Map 11 Lot 22-1,22, 23, and the portion of Lot 24 that lies south of the Heald Highway; Map 14 Lots 1, 1-1, 8, 9, and 9-2.

1.8.1.3.2. Purpose

To promote orderly development of manufacturing, processing, treatment, research, development of new products, and distribution, in accordance with performance standards that are appropriate for these enterprises.

1.8.1.4. Rural District

1.8.1.4.1. Boundaries

All other areas of the Town.

1.8.1.4.2. Purpose

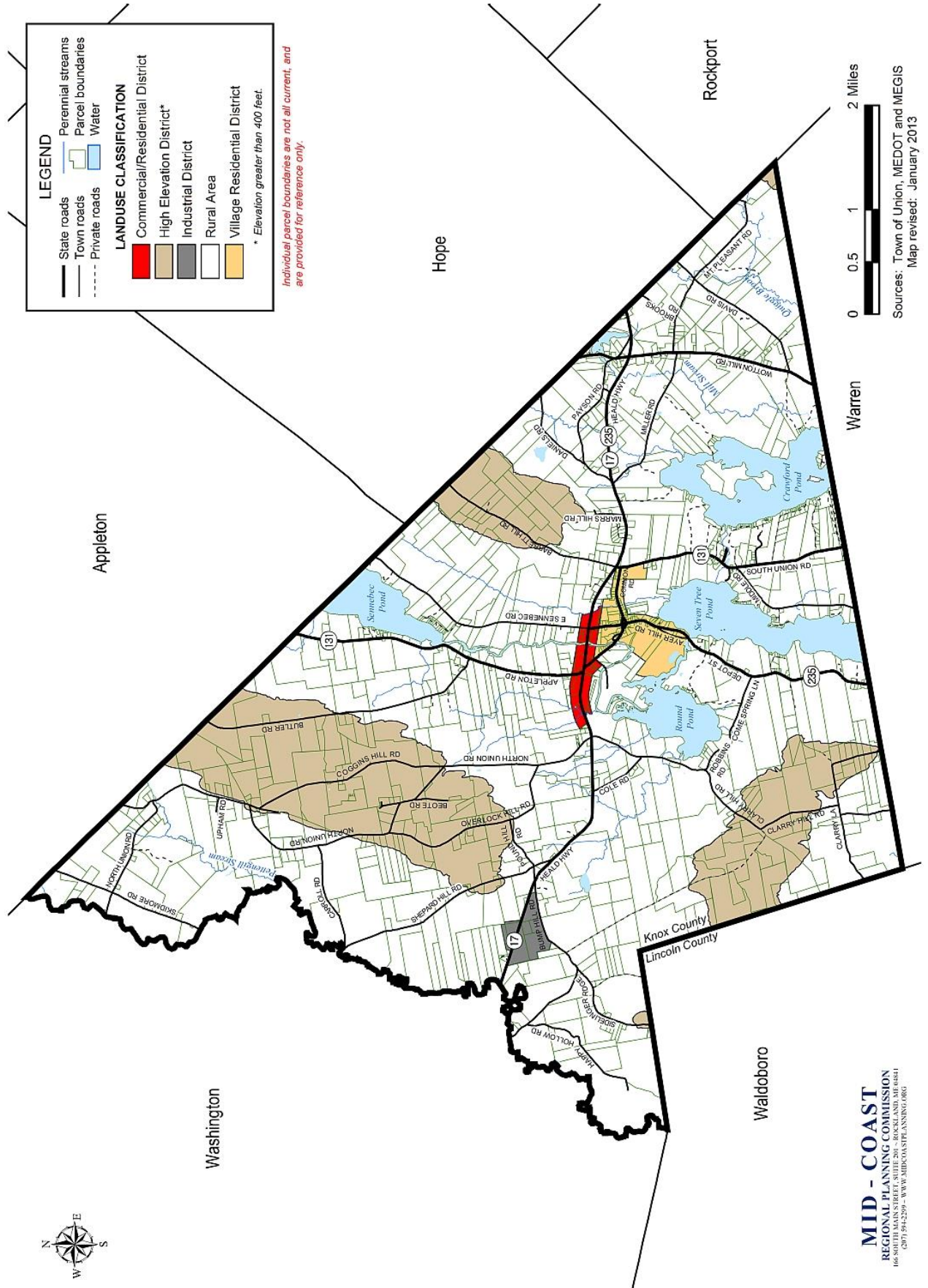
To protect and preserve the rural character of the Town, while providing for flexibility and innovative use of the land in accordance with standards of development that do not unduly compromise the rural character of the district.

1.8.2. Land Use Maps

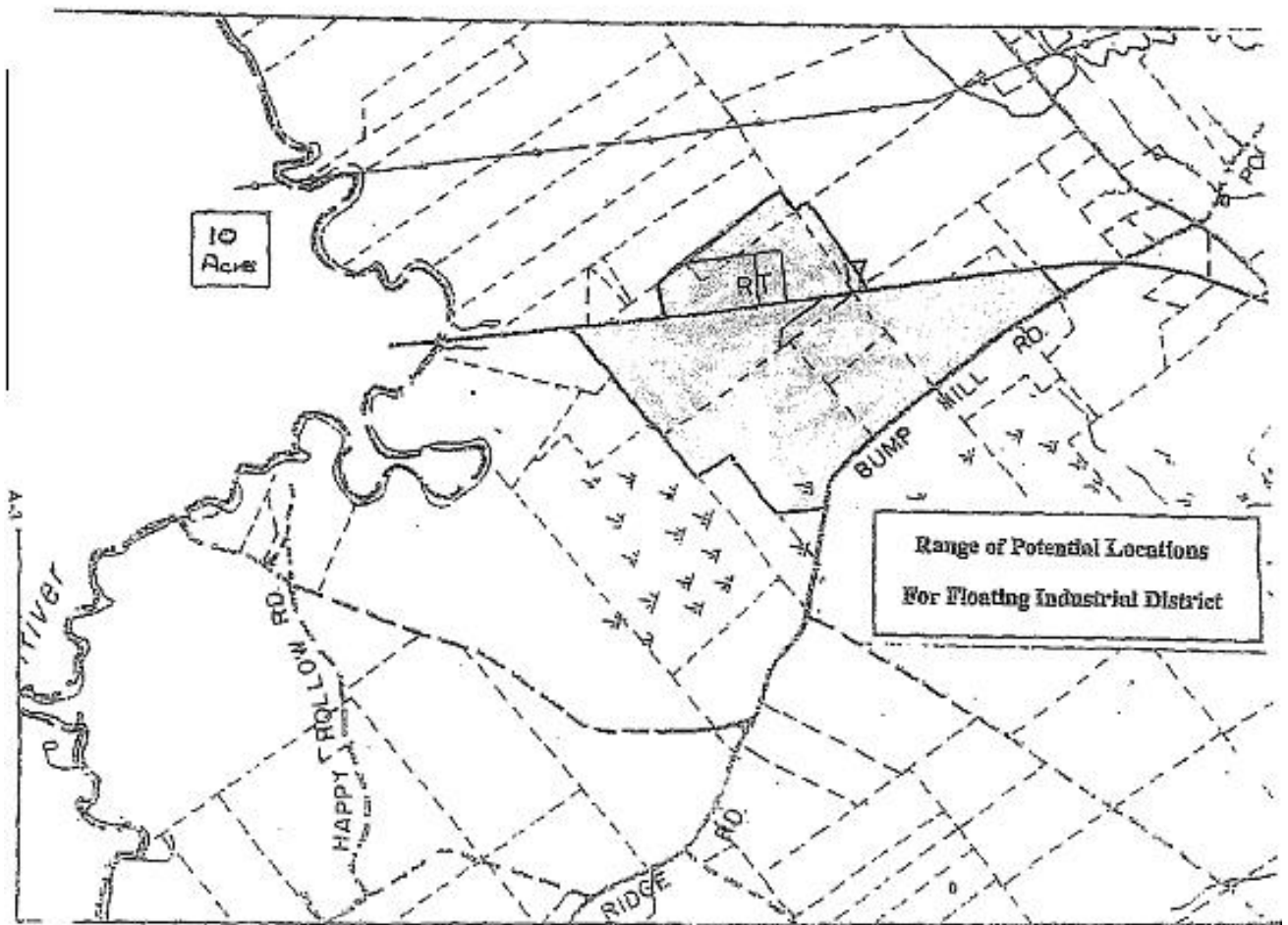
The above districts shall be shown on the Certified Land Use Map filed in the Office of the Town Clerk. The Land Use Map and all future amendments thereto are hereby made a part of this Ordinance.

Town of Union Land Use Ordinance 06/17/2019

Union Land Use Districts



Sources: Town of Union, MEDOT and MEGIS
Map revised: January 2013



1.8.3. Resolution of District Boundaries

Unless otherwise set forth on the Land Use Map, district boundary lines are:

1.8.3.1. Property lines

1.8.3.2. Centerlines of streets, roads, and rights-of-way

1.8.3.1. Boundaries of districts as defined.

Where uncertainty exists as to the exact location of District Boundary Lines, the Board of Appeals shall be the final authority as to location.

1.9. NONCONFORMANCE

1.9.1. Purpose

The purpose of this article is to regulate nonconforming lots, uses, and structures as defined in this Ordinance such that they can be reasonably developed, maintained or repaired, or changed to other less nonconforming or to conforming uses.

1.9.2. Definitions

See ARTICLE 11. DEFINITIONS.

1.9.3. Nonconforming Lots

1.9.3.1. Vacant Lots

1.9.3.1.1. Single Lot in Separate Ownership

A nonconforming lot may be built upon provided that such a lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variance of other requirements shall be obtained only by action of the Board of Appeals.

1.9.3.1.2. Contiguous Lots in Common Ownership

If two or more vacant, contiguous lots, or a lot with a building that is contiguous with one (1) or more vacant lots, are in the same ownership of record at the time of adoption or amendment of this Ordinance, and if these lots do not individually meet the dimensional requirements of this Ordinance, the lots shall be combined to the extent necessary to meet the dimensional standards, except:

1.9.3.1.2.1. where the contiguous lots front onto different streets; or

1.9.3.1.2.2. where the lots were legally created and recorded in an approved subdivision plan.

1.9.3.1.3. Creation of Nonconforming Lot Prohibited

No division of any lot may be made which leaves the lot's frontage or area below the minimum requirements of this Ordinance or which worsens an existing nonconforming situation.

1.9.3.2. Lots with Structures

1.9.3.2.1. Conveyance of Contiguous Lots

When two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the applicable area and dimensional requirements, and if a principal use exists on each lot, or if the lots were legally created and recorded before the adoption of this Ordinance, the nonconforming lots may be conveyed separately or together, providing all other State law and local Ordinance requirements are complied with.

1.9.3.2.2. Conveyance of Contiguous Lots With Permitted Accessory Structures

Contiguous nonconforming lots of record which, at the effective date of adoption or amendment of this Ordinance, are the site of permitted accessory structures shall conform to the provisions of 1.9.3.1.2.

1.9.4. Nonconforming Structures

1.9.4.1. Maintenance and Enlargement

1.9.4.1.1. Repair and Improvement

A structure in existence as of the effective date of this Ordinance that does not meet the height or yard requirements may be repaired, maintained, and improved. It may be enlarged and/or accessory structures may be added to the site without a variance, provided that:

1.9.4.1.1.1. the enlargement or accessory structure itself meets the height requirements of the District in which it is located;

1.9.4.1.1.2. the enlargement or accessory structure in combination with the existing structure does not exceed the prescribed maximum lot coverage; and

1.9.4.1.1.3. the enlargement or accessory structure itself meets the setback requirements of the District or, if located within the same yard area as the nonconforming structure, is no closer to the front, side, or rear lot line than the nonconforming structure, and contains no more than 25 percent of the ground floor area of the nonconforming structure.

1.9.4.1.2. Reconstruction

Any nonconforming building or structure which is hereafter damaged or destroyed by fire or any cause, other than the willful act of the owner or his agent, may be restored or reconstructed in conformity with its original dimensions and used as before within twelve

(12) months of the date of said damage or destruction, provided, however, that such reconstruction and use shall not be more nonconforming than the prior nonconforming building, structure, or use. Nothing in this section shall prevent the demolition of the remains of any building damaged or destroyed.

1.9.5. Nonconforming Uses

1.9.5.1. Continuance

The use of land, building, or structure, lawful at the time of adoption or amendment of this Ordinance, may continue although such use does not conform to the provisions of this Ordinance, except as provided in 1.9.5.3 below.

1.9.5.2. Resumption After Change

Whenever a nonconforming use of land and/or structure is superseded by a permitted use, such structure and/or land use shall thereafter conform to the provisions of this Ordinance and the nonconforming use shall not thereafter be resumed.

1.9.5.3. Resumption After Discontinuance

A nonconforming use which is discontinued for a period of two years shall not be resumed. The uses of the land, building, or structure shall thereafter conform to the provisions of this Ordinance.

1.9.5.4. Expansion of Use

A nonconforming use, including a nonconforming outdoor use of land, shall not be extended or expanded in area or function.

1.9.6. Transfer of Ownership

Ownership of nonconforming lots, structures, and/or uses as defined in this Ordinance may be transferred without loss of their lawful but nonconforming status.

1.10. LAND USE REGULATIONS

1.10.1. Allowable Land Uses

Specific land uses shall be permitted in each of the districts defined in 1.8 that are consistent with the stated purposes of the districts. Table 1.10-1 lists reasonably anticipatable land uses, together with the districts in which these uses shall be permitted, and the administering agent (Code Enforcement Officer or Planning Board; ref 1.12) responsible for dispositioning the land use application in each case. Applications for proposed land uses not specifically listed in Table 1.10-1 shall be dispositioned by the Planning Board. In determining whether a proposed land use not specifically listed in Table 1.10-1 is consistent with this Ordinance in the district for which it is proposed, the Planning Board shall be guided by the land use standards listed in 1.10.3, considering similarities and differences between the proposed land use and the land uses for which standards are expressly provided.

Table 1.10-1. Allowable Land Uses by District, and Application Dispositioning Authority

No.	Residential Uses	Village District	Commercial District	Industrial District	Rural District
101	Accessory apartment	CEO	CEO	NO	CEO
102	Boarding house, boarding care facility	PB	NO	NO	PB
103	Building, structure or use accessory to a residential use	CEO	CEO	CEO	CEO
104	Cluster housing subdivision	PB	NO	NO	PB
105	Conversion of existing single-family dwelling to multifamily dwelling units, including but not limited to apartments or condominiums	PB	NO	NO	PB
106	Elderly housing facility, assisted living facility	PB	NO	NO	PB
107	Home occupation	CEO	CEO	CEO	CEO
109	Manufactured housing, mobile home	CEO	NO	NO	CEO
110	Mobile home park	NO	NO	NO	PB
111	Multi-family dwelling, including but not limited to apartments or condominiums	PB	NO	NO	PB
112	Nursing or convalescent home	PB	NO	NO	PB
113	Single-family dwelling	CEO	CEO	CEO	CEO
114	Two-family dwelling (duplex), including but not limited to apartments or condominiums	CEO	CEO	CEO	CEO

No.	Retail, Light Commercial, Agricultural and Civic Uses	Village District	Commercial District	Industrial District	Rural District
201	Agricultural and related heavy equipment sales and associated services	NO	PB	NO	NO
202	Agricultural products storage and distribution	NO	PB	PB	NPR
203	Amusement center	NO	PB	NO	PB
204	Art gallery	PB	PB	NO	PB
205	Automobile fueling services, excluding body and major mechanical repair	NO	PB	NO	PB
206	Automobile sales and associated services, excluding body and major mechanical repair	NO	PB	NO	PB
208	Bed & Breakfast establishment or similar transient accommodations	PB	NO	NO	PB
209	Banks	PB	PB	NO	NO
210	Bottle club	PB	PB	NO	PB
211	Business services and processing services	PB	PB	PB	PB

Town of Union Land Use Ordinance 06/17/2019

No.	Retail, Light Commercial, Agricultural and Civic Uses	Village District	Commercial District	Industrial District	Rural District
212	Campground	NO	NO	NO	PB
213	Cemetery	NO	NO	NO	PB
214	Churches and other religious facilities	PB	NO	NO	PB
215	Clinic, medical	PB	PB	NO	PB
216	Commercial complex	PB	PB	NO	PB
217	Commercial outdoor recreation facility	NO	PB	NO	PB
218	Community and civic buildings	PB	NO	NO	PB
219	Craftsmen's offices, shops, and showrooms	PB	PB	PB	PB
220	Farming activities, including crop and dairy farming, animal husbandry, and outdoor storage of agricultural products	NPR	NPR	NPR	NPR
221	Flea market	NO	PB	NO	PB
222	Funeral homes	PB	NO	NO	PB
223	Helipad	NO	NO	PB	PB
224	Hospital	NO	PB	NO	PB
225	Hotel or motel, or similar transient accommodations	NO	PB	NO	PB
226	Kennels	NO	NO	PB	PB
227	Landscaping businesses	PB	PB	PB	PB
228	Library	PB	NO	NO	PB
229	Light manufacturing, fabrication, assembly	NO	PB	PB	PB
230	Mechanical repair of small equipment	NO	PB	PB	PB
231	Monument and stone works	NO	PB	NO	PB
232	Museum	PB	NO	NO	PB
233	Nurseries and greenhouses (commercial)	NO	PB	NO	PB
234	Office buildings	PB	PB	PB	PB
235	Outdoor displays / sales accessory to permitted uses	PB	PB	PB	PB
236	Personal services	PB	PB	NO	PB
237	Pet grooming services	PB	PB	PB	PB
238	Post office	PB	PB	NO	NO
239	Printing/publishing	PB	PB	PB	PB
240	Private outdoor recreation facility	CEO	CEO	NO	CEO
241	Professional services	PB	PB	NO	PB
242	Public utilities	PB	PB	PB	PB
243	Restaurants	PB	PB	PB	PB
244	Retail business	PB	PB	PB	PB
245	Schools, commercial	PB	PB	PB	PB
246	Schools, public and private; and day care centers	PB	NO	NO	PB

Town of Union Land Use Ordinance 06/17/2019

No.	Retail, Light Commercial, Agricultural and Civic Uses	Village District	Commercial District	Industrial District	Rural District
247	Seasonal sale of plants and produce grown locally	NPR	NPR	NO	NPR
248	Service clubs and fraternal or veterans organizations	PB	PB	NO	PB
249	Sole source pharmacy including but not limited to methadone clinics	NO	PB	NO	NO
250	Studio	PB	PB	NO	PB
251	Theaters and other indoor places of assembly and entertainment	PB	PB	NO	PB
252	Tradesmen's offices, shops, and showrooms	NO	PB	PB	PB
253	Veterinaries	NO	PB	NO	PB
254	Warehousing, processing, and distribution	NO	PB	PB	PB
255	Wind Energy Facilities, including wind turbines, towers, and associated structures	PB (Note 1)	PB (Note 1)	PB (Note 1)	PB (Note 1)
256	Wireless telecommunication services facility, including but not limited to cell and radio towers	PB	PB	PB	PB
257	Yard sale	NPR	NPR	NO	NPR

No.	Industrial and Heavy Commercial Uses	Village District	Commercial District	Industrial District	Rural District
301	Airfield, airport	NO	PB	NO	PB
302	Boat storage facilities	NO	PB	PB	PB
303	Bulk storage plants	NO	NO	PB	NO
304	Commercial mineral extraction	NO	NO	NO	PB
305	Commercial storage facility	NO	NO	PB	NO
306	Compartmentalized storage facilities	NO	PB	PB	PB
307	Construction services, excluding processing of raw materials or storage of materials except for retail sale	NO	PB	PB	PB
308	Distribution businesses	NO	PB	PB	NO
309	Excavation, processing, and storage of soil, loam, sand, and gravel	NO	NO	PB	PB
310	Junkyard, auto graveyard, auto recycling	NO	NO	PB	PB
311	Lumber yard, sawmill, pulp mill	NO	NO	NO	PB
312	Living quarters for watchman or custodian	NO	PB	PB	NO
313	Manufacturing, assembly, compounding, processing, packing, treatment of products	NO	NO	PB	NO

Town of Union Land Use Ordinance 06/17/2019

No.	Industrial and Heavy Commercial Uses	Village District	Commercial District	Industrial District	Rural District
314	Automobile/vehicle body shop and automobile repair services	NO	PB	PB	PB
315	Municipal solid waste transfer	NO	NO	PB	PB
316	Radioactive low-level waste disposal facility	NO	NO	NO	NO
317	Retail sales accessory (incidental) to an allowed use	PB	PB	PB	PB
318	Solid waste disposal and/or sewage treatment facility	NO	NO	NO	NO
319	Tire storage	NO	NO	PB	PB
320	Transportation facilities	NO	PB	PB	NO
321	Warehouses	NO	PB	PB	NO

No.	Other Uses	Village District	Commercial District	Industrial District	Rural District
401	Accessory buildings	CEO	CEO	CEO	CEO
402	Driveways, entrances and access points to public roads, including curb cuts	CEO	CEO	CEO	CEO
403	Other uses similar in local impact to allowed uses	PB	PB	PB	PB
404	Signs	CEO	CEO	CEO	CEO
405	Temporary structures	CEO	CEO	CEO	CEO

Key:

PB Application to be dispositioned by Planning Board
 CEO Application to be dispositioned by Code Enforcement Officer
 NPR No permit required
 NO Not allowed

Note 1 Applications for wind energy facilities complying with 1.10.3.30a may be dispositioned by the CEO.

1.10.2. Dimensional Requirements

1.10.2.1. Standard Dimensional Requirements

Standard dimensional requirements for lot size, lot coverage, frontage, setbacks, and building height shall be as listed in Table 1.10-2, unless otherwise specified for specific land uses in 1.10.3.

Table 1.10-2. Standard Dimensional Requirements by District

Dimension	Village	Commercial	Industrial	Rural
Minimum lot size (sq. ft.)	20,000	60,000	10A*	60,000
Minimum lot size for dwellings (sq. ft.)				
Single-family	20,000	60,000	N/A	60,000
Single-family w. accessory apartment	20,000	60,000	N/A	60,000
Two-family	40,000	90,000	N/A	90,000
Multi-family				
first dwelling unit	20,000	N/A	N/A	60,000
each additional dwelling unit	20,000	N/A	N/A	30,000
Minimum lot size for cluster housing				
Overall lot size (sq. ft.)	20,000	N/A	N/A	60,000
Lot size per dwelling unit (sq. ft.)	20,000			20,000
Minimum street frontage (ft.)	100	150	500*	150
Minimum front yard from edge of right-of-way (ft.)**	25	30	200*	25
Minimum side and rear yard (ft.)**	20	20	200*	20
Maximum building height (ft.)				
Residential	35	35	N/A	35
Nonresidential	50	50	50	50
Maximum lot coverage by buildings	20%	20%	25%	10%***

* Dimensional requirements for a lot in the Industrial District are defined for a single-lot district, such as an industrial park in single ownership. For more-complex lot configurations, further refinements may be made by amendment in the process of establishing the district through the procedure specified in 1.5.8 and 1.8.1.3.

** The minimum front yard setback shall be required for each yard abutting a public right-of-way.

*** Maximum lot coverage in the Rural District shall be 15 percent for Town-owned properties used for municipal purposes. Maximum lot coverage in the High Elevation Overlay District (see 1.11) shall be 5 percent.

1.10.2.2. Setback Exceptions

The Board of Appeals may grant limited variances from strict application of the front and side setback distances under circumstances established in 12.5.9.8.

1.10.2.3. Secondary Feature Exceptions

Features of buildings or structures not intended for human habitation, such as chimneys, ventilators, towers, and spires, may exceed these heights, but shall be set back from all lot lines a distance not less than the height of such feature or structure.

1.10.2.4. Road Frontage Exceptions

Up to two new "back lots" (without road frontage) may be created from any preexisting lot of record as of March 12, 1988, provided they:

1.10.2.4.1. conform to the minimum lot size required in the District;

1.10.2.4.2. are accessed by a minimum twelve (12) foot wide driveway containing eighteen (18) inches of gravel, with drainage ditches and with culverts at appropriate points, within a deeded right-of-way which is not less than fifty (50) feet wide, and provided the creation of said right-of-way does not leave the original lot nonconforming in terms of area or frontage; and

1.10.2.4.3. are at least as wide as the road frontage dimension normally required in the District.

1.10.3. Land Use Standards

1.10.3.1. Purpose

The standards contained in this section are intended to allow various uses to be accommodated without detriment to neighboring uses and properties.

1.10.3.2. Accessory Buildings

No garage or other accessory building shall be located in a required front yard. Accessory buildings not exceeding ten (10) feet in height may be located not less than ten (10) feet from side or rear lot lines. Accessory buildings exceeding ten (10) feet in height shall be located not less than one (1) foot from the side or rear lot lines for each foot of height.

1.10.3.3. Automobile Fueling Services

This use is allowed only on properties with frontage directly on the Heald Highway that is not less than the minimum road frontage required in the Rural District, and with vehicle access at least from the Heald Highway.

1.10.3.4. Boarding House, Boarding Care Facility, Elderly Housing Facility, Assisted Living Facility

In the Village District and the Rural District, a facility of this type may not exceed a capacity of 12 boarders.

1.10.3.5. Campgrounds

Campgrounds shall conform to the Shoreland Zoning provisions.

1.10.3.6. Commercial Complex

A commercial complex in the Village District shall not exceed a ground footprint of 12,000 sq ft, and shall be allowed only in the following areas: along the north side of Burkett Road from the Townhouse Road to 52 Burkett Road; along the south side of the Common Road from Depot Street to 281 Common Road; and along the south side of the Common Road from the St Georges River to the Fairgrounds Lane.

1.10.3.7. Convalescent Homes

Convalescent homes, including nursing homes, extended care facilities, and other facilities primarily for the elderly or those requiring nursing care shall conform to the following:

1.10.3.7.1. New buildings shall be no higher than one story, twenty-five (25) feet in height;

1.10.3.7.2. Existing buildings shall not be used for human occupancy above the second story;

1.10.3.7.3. All convalescent homes shall meet State Fire Safety Regulations;

1.10.3.7.4. Lots shall meet all requirements for single-family dwellings;

1.10.3.7.5. No parking shall be located within the required yard areas.

1.10.3.8. Dwellings

1.10.3.8.1. Single-Family Dwelling

A single-family dwelling shall comply with the dimensional requirements established in 1.10.2.

1.10.3.8.2. Two-Family Dwelling

A two-family dwelling (duplex) shall comply with the dimensional requirements established in 1.10.2.

1.10.3.8.3. Multi-family Dwelling

A multi-family dwelling, other than a duplex or apartment conversion, shall conform to the following:

1.10.3.8.3.1. The minimum road frontage shall be two hundred (200) feet.

1.10.3.8.3.2. The minimum setback from all lot lines shall be thirty (30) feet.

1.10.3.8.3.3. Lots and multi-family dwellings shall meet all other dimensional

requirements for the District in which they are located.

1.10.3.8.3.4. In the Village District and the Rural District, no building shall contain more than six dwelling units.

1.10.3.8.3.5. All units shall be connected to a common water supply and distribution system, either public or private.

1.10.3.8.3.6. All units shall be connected to a public sewer system, if available, or to a central collection and treatment system, in accordance with the Maine State Plumbing Code.

1.10.3.8.4. Apartment Conversion

A single-family dwelling may be converted to a number of dwelling units appropriate to the structure and lot, provided:

1.10.3.8.4.1. All lot-size requirements established in Table 1.10-2 for multi-family dwellings shall be met;

1.10.3.8.4.2. The street frontage requirement established in Table 1.10-2 for a single-family dwelling shall be met;

1.10.3.8.4.3. Alterations shall be limited to those required to comply with applicable health, building, and State fire safety regulations, and shall not substantially alter the single-family appearance of the residence;

1.10.3.8.4.4. If not connected to a public sewer system, the lot must contain sufficient area and suitable soil conditions for on-site disposal in accordance with the Maine State Plumbing Code, Part 2.

1.10.3.8.4.5. Each unit shall contain the following minimum living areas:

Efficiency or studio apartment	300 sq. ft.
1-bedroom apartment	400 sq. ft.
2-bedroom apartment	550 sq. ft.
3-bedroom apartment	700 sq. ft.
4-bedroom apartment	850 sq. ft.

1.10.3.8.4.6. Off-street parking shall be provided in accordance with 1.10.4.2.

1.10.3.8.4.7. No parking shall be located within the required yard areas.

1.10.3.8.4.8. All units shall remain in single ownership, and at least one unit shall be owner occupied at all times.

1.10.3.8.5. Accessory Apartment (In-Law Apartment)

An accessory apartment may be developed within or attached to an existing single-family dwelling, subject to the regulations in this section. The accessory apartment shall not be considered an additional dwelling unit for purposes of applying the dimensional standards specified in 1.10.2.

1.10.3.8.5.1. The principal unit and the accessory apartment shall remain under common ownership, and one of the units shall be owner-occupied at all times.

1.10.3.8.5.2. The accessory apartment shall not alter the basic character of the building as a single-family dwelling.

1.10.3.8.5.3. One driveway shall service both dwelling units. Off-street parking for both units must be provided with two spaces for the principal dwelling unit and one space for the accessory apartment.

1.10.3.8.5.4. The accessory apartment shall include its own kitchen, three-fixture bath, and no more than one bedroom. The floor area of the apartment must be at least 425 square feet and cannot exceed 800 square feet and 33% of the floor area of the existing home.

1.10.3.8.5.5. The accessory apartment shall comply with all applicable codes and ordinances.

1.10.3.9. Group Homes/Boarding Homes

Group Homes/Boarding Homes providing full-time staffing and residential facilities for short and long-term occupancy by those not requiring nursing care shall conform to the following:

1.10.3.9.1. New buildings shall be no higher than two stories, thirty-five (35) feet in height, and no group home shall be used for human occupancy above the second story;

1.10.3.9.2. All Group Homes/Boarding Homes shall meet State Fire Safety Regulations.

1.10.3.10. Excavation, Processing, and Storage of Soil, Loam, Sand and Gravel

1.10.3.10.1. Applicability of Shoreland Zoning Ordinance

All operations shall be conducted in accordance with the shoreland provisions of 4.15.13 Mineral Exploration and Extraction and 4.15.20 Water Quality.

1.10.3.10.2. Setback from Lot Lines

No below-grade excavation shall occur within fifty (50) feet of any lot line. Natural vegetation shall, to the extent possible, not be removed or disturbed within the fifty (50) foot setback from all lot lines.

1.10.3.10.3. Finished Slopes

Finished slopes of excavations, except in rock, shall be no steeper than three (3) feet

horizontally to one (1) foot vertically (3:1) and shall be loamed with not less than four (4) inches of topsoil and seeded and mulched to prevent erosion.

1.10.3.10.4. Topsoil Retention

Removal of sod, loam, or topsoil shall leave not less than four (4) inches of topsoil. Where sand, gravel, or other minerals are to be removed, sufficient topsoil shall be stockpiled to permit compliance with 1.10.3.10.3 above.

1.10.3.10.5. Setback from Shoreline

No excavation, filling, or storage of materials shall occur within seventy-five (75) feet of the bank of any waterbody as defined in this Ordinance. No excavation shall result in standing water unless in conformance with a final grading plan approved by the Planning Board.

1.10.3.11. Commercial Mineral Extraction

1.10.3.11.1. Planning Board Approval Required

The excavation, processing, and storage of commercial minerals shall be approved by the Planning Board prior to commencing any operation. The excavation, processing, and storage of topsoil, rock, minerals, sand, gravel, and similar earth materials shall be conducted only after a permit for such operations has been approved by the Planning Board and issued by the Code Enforcement Officer.

1.10.3.11.2. Application for Commercial Mineral Extraction

Application for approval by the Planning Board shall include:

1.10.3.11.2.1. A sketch plan which shows:

1.10.3.11.2.1.1. The name and address of the property owner involved.

1.10.3.11.2.1.2. The name and address of the operator who will undertake the earthmoving activity, if different from the property owner.

1.10.3.11.2.1.3. The location and boundaries of the lot or lots for which approval is requested.

1.10.3.11.2.1.4. The names and addresses of the owners of all parcels of land directly abutting or directly across any street adjoining the property for which approval is requested.

1.10.3.11.2.1.5. The location of all proposed access roads and temporary structures.

1.10.3.11.2.1.6. The location of all natural or man-made water bodies and wetlands within the proposed site or within one kilometer (3,281 feet) of the proposed site.

1.10.3.11.2.1.7. The topography and elevation of the proposed site shown with

contour lines with a contour interval of not more than five (5) feet.

1.10.3.11.2.1.8.. The specific location of the proposed earth movement with an indication of the degree to which earth movement activity will occur within specified time intervals.

1.10.3.11.2.2. Written statements and/or sketch plans which detail:

1.10.3.11.2.2.1. The location and nature of proposed fencing, buffer strips, signs, lighting, parking, and loading areas.

1.10.3.11.2.2.2. The proposed method of earth movement.

1.10.3.11.2.2.3. The estimated duration, regularity, and working hours of the proposed operation.

1.10.3.11.2.2.4. Plans to control erosion and sedimentation during the operation, including plans to prevent water runoff or other excess water discharge from polluting adjacent or neighboring natural waters and wetlands.

1.10.3.11.2.2.5. Plans to stabilize unstable slopes.

1.10.3.11.2.2.6. Plans to store and/or remove stripped vegetation, topsoil, or other surficial materials. g. Plans for the rehabilitation and restoration of the site upon completion of the operation, including the timing of such site restoration, the final grade, and methods to control erosion and sedimentation both during and after reclamation activities.

1.10.3.11.2.2.7. The effect of the proposed activity on existing and foreseeable traffic patterns in the town.

1.10.3.11.3. Performance Standards for Commercial Mineral Extraction

1.10.3.11.3.1. Planning Board to Specify Requirements

The Planning Board in granting approval shall specify such requirements as it deems necessary or desirable to ensure compliance with the following performance standards.

1.10.3.11.3.2. Setback from Lot Lines and Street Lines

No part of any extraction operation shall be permitted within one hundred-fifty (150) feet of any property or street line, except that drainage ways to reduce runoff into or from the extraction area may be allowed up to within fifty (50) feet of such line. No excavation shall be extended below the grade of adjacent streets unless one hundred (100) feet from the street line or unless provision has been made for reconstruction of the street at a different level. No below-grade excavation, except for drainage ways, shall occur within fifty (50) feet of any other lot line except as allowed above. Natural vegetation shall be undisturbed and maintained in all setback and buffer areas.

1.10.3.11.3.3. Pile Heights and Slopes

No slope steeper than three (3) feet horizontal to one (1) foot vertical (3:1) shall be permitted at any extraction site for any materials stored or stockpiled on the site. Maximum height of tailings or other materials piles shall not exceed fifty (50) feet (15.24 meters).

1.10.3.11.3.4. Screening From Surrounding Property

The operation shall be shielded from surrounding property with adequate screening.

1.10.3.11.3.5. Liability Insurance

Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation and the closure/reclamation phase.

1.10.3.11.3.6. Topsoil To Be Stockpiled

All topsoil and subsoil suitable for purposes of restoration and revegetation shall be stripped from the location of the extraction operations and stockpiled in reserve for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion.

1.10.3.11.3.7. Control of Runoff, Debris, and Effluents

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials that run off, seep, percolate, or wash into surface or ground waters and are of such nature, quantity, obnoxiousness, toxicity, or temperature 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.

1.10.3.11.3.8. Control of Sediment

Sediment shall be trapped by diversions, silting basins, terraces, and other measures designed by a professional engineer in order to protect surface water bodies from sedimentation.

1.10.3.11.3.9. Control of Erosion

Specific plans shall be established to avoid hazards from excessive slopes or standing water. Where an embankment must be left upon completion of operations, it shall be at a slope not steeper than three (3) feet horizontal to one (1) foot vertical (3:1) and shall be loamed with not less than four (4) inches of topsoil and seeded and mulched to prevent erosion. The sides and bottoms of cuts, fills, channels, and artificial water courses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission Technical Guide Standards and Specifications.

1.10.3.11.3.10. Disturbance of a Water Source

The operation shall create no disturbance of a water source.

1.10.3.11.3.11. Hours of Operation

The hours of operation at any extraction and/or mineral processing site shall be limited to 7:00 a.m. to 6:00 p.m. during weekdays, unless otherwise specified by the Planning Board.

1.10.3.11.3.12. Covering of Loaded Vehicles

Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load.

1.10.3.11.3.13. Control of Road Dust and Mud

All access or egress roads leading to or from the extraction site to public ways shall be treated with suitable materials and with repeated frequency sufficient to reduce dust and mud for a distance of at least hundred (100) feet from such public ways.

1.10.3.11.3.14. Control of Emissions

Any processing of the extracted materials on site shall be accomplished within noise limiting, odor emitting, and air emission standards defined in 1.10.7 and 1.10.8 of this Ordinance.

1.10.3.11.3.15. Transport of Materials

Any transport to or from the extraction or processing site of dangerous, hazardous, or toxic materials shall be in approved containers/vehicles in accordance with I.C.C. specifications, driven by appropriately licensed personnel, and escorted as appropriate to avoid accidents or spillage.

1.10.3.11.3.16. Storage of Materials

Any dangerous, hazardous, or toxic materials that are necessary to the operation and are kept on the extraction or processing site, such as, but not limited to, explosives, detonators, acids, and toxic chemicals, shall be securely stored in approved facilities and adequately protected against theft, tampering, or vandalism. Facilities and methods of storage shall be in accordance with best professional standards, including Mine Safety Appliance Guidelines, National Association of Underwriters, and National Fire Protection Association Standards. Premises shall be open to inspection on demand by the Town Fire Chief and State Fire Marshall.

1.10.3.11.3.17. Extraneous Materials and Equipment

No equipment, debris, junk, or other extraneous material shall be allowed to accumulate on an extraction site, except that directly related to active extraction operations or processing operations, and any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within thirty (30) days following completion of active extraction operations.

1.10.3.11.3.18. Site Restoration

Within twelve (12) months following the completion of extraction operations at any extraction site or any one or more locations within any extraction site, ground levels and grades shall be established in accordance with the approved plans filed with the Planning Board so that:

1.10.3.11.3.18.1. All debris, stumps, boulders, and similar materials shall be removed and disposed of in an approved location or buried and covered with a minimum of two (2) feet of soil. Only materials generated on site may be buried or covered.

1.10.3.11.3.18.2. Storm drainage and water courses shall leave the location at the original natural drainage points, where practicable, and in a manner such that the amount of drainage at any point is not significantly increased.

1.10.3.11.3.18.3. The disturbed land shall be restored as nearly as possible with contours approaching the natural contours which pre-existed the extraction operation.

1.10.3.11.3.18.4. At least four (4) inches of topsoil or loam shall be retained or obtained to cover all disturbed land areas, which shall be reseeded and properly restored to a stable condition. Upon completion of each section, in accordance with approved plans, all disturbed areas shall be loamed with not less than four (4) inches of topsoil, seeded, and mulched to prevent erosion. Suitable vegetation native to the area prior to the land-clearing activity shall be replanted upon completion of the reclamation phase.

1.10.3.11.3.18.5. The final grade slope shall not exceed a three to one (3:1) slope.

1.10.3.11.3.19. Surety and Terms of Approval

No approval shall be issued without adequate security to ensure compliance with such conditions as the Planning Board may impose. No approval shall be issued for a period to exceed five (5) years, although such approval may be renewed for additional periods in the same manner contained herein. A performance bond may be required in an amount sufficient to ensure the complete restoration of the site in the event of financial failure of the owner or operator. Choice of the bonding firm and determination of the bond amount shall be at the discretion of the Planning Board.

1.10.3.12. Home Occupations

Home Occupations shall include occupations or professions carried out in a dwelling unit or accessory building to the dwelling unit; carried on by a person or persons residing in the dwelling unit; and clearly incidental and secondary to the residential use of the dwelling unit. Home Occupations shall conform to the following:

1.10.3.12.1. Where located within three hundred (300) feet of an existing dwelling, the occupation or profession shall be carried on wholly within the dwelling unit or accessory building(s) on the premises.

1.10.3.12.2. Off-street parking shall conform to the off-street parking and loading requirements of this Ordinance.

1.10.3.12.3. No nuisance, offensive noise, vibration, smoke, dust, odors, heat, or glare shall be generated.

1.10.3.13. Industrial District Uses

All facilities in the Industrial District shall provide for vehicle access only from the Heald Highway.

1.10.3.14. Junkyards/Automobile Graveyards/Automobile Recycling

Junkyards/Automobile Graveyards/Automobile Recycling shall conform to 30-A M.R.S.A. Sections 3751 through 3760.

1.10.3.15. Manufacturing, Warehousing, Transportation Facilities; Research Facilities

Where located adjacent to residential lots, Manufacturing, Warehousing, Transportation Facilities, and Research Facilities shall conform to the following:

1.10.3.15.1. Side and rear yard setbacks shall be not less than fifty (50) feet, of which not less than twenty (20) feet shall be maintained as yard space.

1.10.3.15.2. No parking or outdoor storage shall be located within the required twenty (20) foot yard area.

1.10.3.15.3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces

1.10.3.16. Municipal Solid Waste Transfer Facility

This use is allowed only in the Rural and Industrial Districts, only on properties with frontage directly on the Heald Highway that is not less than the minimum road frontage required in the district, and only with vehicle access at least from the Heald Highway.

1.10.3.17. Nursing and Convalescent Homes

In the Village District and Rural District, such homes shall contain no more than twelve units.

1.10.3.18. Office Buildings

Office buildings in the Village District shall not contain more than six units.

1.10.3.19. On-Site Sale of Products

Agricultural or horticultural products, the major portion of which is grown or produced on the premises, may be sold from a stand not exceeding one hundred (100) square feet in area.

A larger size building shall be considered a retail or wholesale business.

1.10.3.20. Printing/Publishing

Printing and or publishing facilities in the Village and Rural Districts shall not exceed a ground footprint of 1,500 sq ft.

1.10.3.21. Public Buildings

Public buildings shall conform to the applicable off-street parking and loading requirements and to the land use standards applicable to similar privately operated facilities.

1.10.3.22. Public Utility Buildings

Public utility buildings shall conform to the applicable off-street parking and loading requirements. Offices shall conform to the land use standards for Retail and Wholesale Business, Services, Business and Professional Offices and Commercial Outdoor Recreation. Storage, manufacturing, and research uses shall conform to the land use standards for Manufacturing, Warehousing, and Research Facilities and/or Outdoor Sales and Storage, as applicable.

1.10.3.23. Refuse Disposal Facilities

Commercial and private refuse disposal facilities shall comply with the Town of Union Hazardous Waste Ordinance and with 30-A M.R.S.A. Sections 3751 through 3760.

1.10.3.24. Restaurants, Motels, Outdoor Sales and Storage

1.10.3.24.1. Restaurants

Restaurants shall conform to the following:

1.10.3.24.1.1. Lots shall meet all requirements for single-family dwellings.

1.10.3.24.1.2. No parking shall be located within ten (10) feet of any lot line.

1.10.3.24.1.3. Refuse containers not within a building shall be placed not less than thirty (30) feet from any lot line and shall be screened from view and maintained so as to prevent access flies and vermin.

1.10.3.24.1.4. Restaurants serving "take-out" food or providing outdoor dining on the premises shall provide suitable waste receptacles for use by customers.

1.10.3.24.2. Motels

Motels shall conform to the following:

1.10.3.24.2.1. Lots shall meet all requirements for single-family dwellings and shall have an area of not less than five thousand (5,000) square feet per sleeping room.

Town of Union Land Use Ordinance 06/17/2019

1.10.3.24.2.2. New buildings shall be no higher than two stories. 1.10.3.24.2.3. No parking shall be located within ten (10) feet of any lot line.

1.10.3.24.3. Outdoor Sales and Storage

Outdoor Sales and Storage shall conform to the following:

1.10.3.24.3.1. Lots shall meet all requirements for single-family dwellings.

1.10.3.24.3.2. No parking or storage shall be located within twenty (20) feet from any lot line.

1.10.3.24.3.3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots, as required for off-street parking and loading spaces.

1.10.3.25. Retail and Wholesale Businesses, Business and Professional Offices, and Commercial Outdoor Recreation

Where located adjacent to residential lots, the above uses shall conform to the following:

1.10.3.25.1. Side and rear yard setbacks shall be not less than thirty (30) feet, of which not less than ten (10) feet shall be maintained as yard space.

1.10.3.25.2. No parking or outdoor storage shall be located within ten (10) feet of any lot line.

1.10.3.25.3. All outdoor storage of material, goods, or vehicles shall be screened from view from adjacent residential lots as required for off-street parking and loading areas.

1.10.3.25.4. Retail facilities in the Village District shall not exceed a ground footprint of 2,500 sq ft.

1.10.3.26. Schools, Public and Private; Semi-Public Buildings; Churches and other Religious Facilities; and Cemeteries

These uses shall conform to the following:

1.10.3.26.1. Side and rear yard setbacks shall be not less than thirty (30) feet, of which not less than ten (10) feet shall be maintained as yard space;

1.10.3.26.2. No parking or outdoor storage shall be located within the required ten (10) foot yard area;

1.10.3.26.3. Applicable off-street parking and loading requirements shall be met, except that no off-street parking shall be required for cemeteries.

1.10.3.27. Signs

1.10.3.27.1. Setback Signs are not to be considered structures for setback purposes.

1.10.3.27.2. Content Restrictions

Except for directional signs permitted by the Maine Travelers Information Services Act, or signs on municipal property, all permanent signs shall relate to goods and services available on the premises on which the sign is located.

1.10.3.27.3. Size Restrictions

Maximum allowed size of signs shall be based on the posted speed limit on the street or road on which the sign is located, as follows:

Posted Speed Limit	Maximum Size Allowed
0 to 30 MPH, or not posted	32 sq. ft.
31 to 50 MPH	48 sq. ft.
51 MPH and above	90 sq. ft.

1.10.3.27.4. Safety Restrictions

No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination, or wording, the sign may interfere with, obstruct the view of, or be confused with, any authorized sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.

1.10.3.27.5. Temporary Signs

Temporary signs shall be allowed for special events only for a period not to exceed thirty (30) consecutive days in a twelve (12) month period and shall require no permit or fee.

1.10.3.27.6. **Changeable Sign**

See definition

1. Rapidly means more frequently than once per 20 minutes.
 2. Display means those portions of the surface area of a changeable sign that are capable of being periodically altered rapidly for the purpose of conveying the same or a different message.
 3. A message is altered if the display changes color or appearance; rolls, flashes, scrolls, blends, phases or pulses or its word, numbers, symbols, and / or images change.
- The message on the display of a changeable sign is prohibited from being altered more frequently than once every 3 seconds, except a message may pause, pulse, roll, scroll, or blend provided that a full cycle of the message takes at least 25 seconds to complete.

Changeable signs are allowed on property abutting Heald Highway only.

1.10.3.27.7. Existing Signs Grandfathered

Any permitted sign in existence as of the effective date of this Ordinance shall be grandfathered.

1.10.3.27.8. Exceptions to Sign Permit Requirements

Permits are not required for personal occupant signs of two (2) square feet or less of display area, historic designation signs, three (3) temporary real estate signs per lot

totaling a maximum of fifty (50) square feet, signs indicating "No Trespassing" or "No Hunting" posted in accordance with State laws and regulations, traffic or other municipal signs, legal notices, railroad crossing signs, danger signs, and other such temporary emergency or non- advertising signs.

1.10.3.28. Cluster Development

1.10.3.28.1. Planning Board Discretion

This section of the Ordinance relates to space and bulk. The Planning Board in reviewing and approving proposed residential subdivisions located in Union regardless of in which District the subdivision is proposed may modify said provisions related to space and bulk to permit innovative approaches to housing and environmental design as outlined in this subsection. This shall not be construed as granting variances to relieve hardship.

1.10.3.28.2. Special Provisions for Clustering

In all Districts, the following special provisions may apply subject to the conditions set forth.

1.10.3.28.2.1. The purpose and intent of the Land Use Ordinance shall be upheld.

1.10.3.28.2.2. There shall be compliance with all state and local codes and ordinances.

1.10.3.28.2.3. There shall be no approval of any proposed development which exceeds the net residential density established by the area of residual space available for residential development after deduction for vehicular rights-of-way and land not buildable because of drainage, subsurface conditions, or other natural impediment.

1.10.3.28.2.4. Each building shall be an element: of an overall plan for site development.

1.10.3.28.2.5. Where possible, buildings shall be oriented with respect to topography and natural drainage areas.

1.10.3.28.2.6. Development proposals shall include a landscape program to illustrate the proposed treatment of space, roads, paths, and service and parking areas. Screening devices shall not impair pedestrian and vehicular safety.

1.10.3.28.2.6. All utilities shall be installed underground. All transformer boxes, substations, pumping stations, and meters shall be located and designed so as not to be hazardous to the public.

1.10.3.28.2.7. Residual open space accumulated by modifying space, bulk, and dwelling type requirements within the allowable density limits shall be dedicated to the recreational amenity and environmental enhancement of the subdivision and shall be deed-recorded as such. Such dedications may include private covenants or

arrangements to preserve the integrity of agricultural open spaces for farming or conservation purposes.

1.10.3.28.2.8. After approval of a proposed subdivision, there shall be no further subdivision of land within the proposed development which will increase the allowable net density. This shall be guaranteed by restrictive covenants provided in the subdivision by the developer who shall furnish and file evidence of same with the Town of Union prior to approval of the subdivision by the Planning Board.

1.10.3.28.2.9. The developer shall file with the Town of Union at the time of submission of Final Plans a performance guarantee. This may be tendered in the form of a certified check payable to the Town of Union. The conditions and amount of such check shall be determined by the Planning Board with the advice of the various town departments or agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified in the Final Plan and shall be conditional on the satisfactory completion of all such specific improvements within a period agreed upon by the developer and the Planning Board.

1.10.3.28.2.10. For the purposes of this section, the tract or parcel of land involved must be either in single ownership or the subject of an application filed jointly by the owners of all the property included.

1.10.3.29. Tire Storage

1.10.3.29.1. Applicability

These requirements shall apply to facilities which are established and operated wholly or in part for the purpose of storing tires.

1.10.3.29.2. Tire Storage Facilities

1.10.3.29.2.1. Tire Storage Area Limit

The area designated for tire storage shall not exceed ten thousand (10,000) square feet.

1.10.3.29.2.2. Stored Materials Limits

These facilities shall accept only rubberized vehicle tires, exclusive of rims, and shall not store the tires for a period exceeding two (2) years.

1.10.3.29.2.3. Buffer Strip Requirements

There shall be a minimum of a two hundred fifty (250) foot buffer strip between the tire pile and all public roads, and between the tire pile and all property boundaries, wells and springs.

1.10.3.29.3. Storage of Tires

1.10.3.29.3.1. Storage Surface

Tires shall be placed on mineral soil.

1.10.3.29.3.2. Pile Height Limit

The height of the pile shall not exceed thirty (30) feet.

1.10.3.29.4. Surface Water Protection

The tire pile shall not lie closer than three hundred (300) feet to a body of classified water.

1.10.3.29.5. Ground Water Protection

No tire storage shall occur within three hundred (300) feet of the outwash plain, glaciomarine delta, kame, stratified moraine, or other deposits commonly consisting of sand or gravel.

1.10.3.29.6. Floodplains

Tires shall not be stored on a floodplain nor within one hundred (100) feet of the 100-year flood level.

1.10.3.29.7. Access to Storage Area

The owner or operator of the tire storage facility shall control access to the storage area and prevent the storage or disposal of unapproved wastes in the following manner:

1.10.3.29.7.1. A non-combustible fence shall be constructed and maintained to the minimum height of eight (8) feet to enclose the tire storage area and the two hundred fifty (250) foot buffer strip surrounding the pile. Gate(s) shall be open only when an attendant or equipment operator is on duty. The gate(s) shall be closed and locked at all other times.

1.10.3.29.7.2. The owner or operator shall provide and maintain in good repair access roads at the facility site. Such access roads shall be designed and constructed so that traffic or emergency vehicles shall enter and exit the site safely and not be interrupted by inclement weather.

1.10.3.29.8. Fire Protection

The owner or operator shall provide for fire control as follows:

1.10.3.29.8.1. A strip one hundred (100) feet wide cleared to mineral soil must be constructed on all sides of the storage site. All grass, weeds, slash, brush, debris, and other flammable material shall be removed for a distance of one hundred (100) feet in all directions outside the cleared mineral soil strip. Trees need not be removed, except that green branches of conifers and dead branches of all trees shall be pruned to a height of ten (10) feet above the gravel. Dead snags of all trees shall be removed.

1.10.3.29.8.2. The owner or operator shall make arrangements for fire control with a local fire department and provide written proof of such. In lieu of such a statement, a written statement from the local fire department must be provided confirming that the owner or operator has available at the site at all times equipment sufficient to contain a

fire at the site.

1.10.3.29.9. Operating Plan

The applicant shall submit an acceptable operating plan which shall include at a minimum:

1.10.3.29.9.1. A schedule for periodic removal or disposal of tires.

1.10.3.29.9.2. Procedures to be followed by an attendant in case of emergency.

1.10.3.29.9.3. In case of fire, procedures to be followed for clean-up and disposal of debris and contaminated soil.

1.10.3.29.10. Financial Surety

Escrow accounts or other financial sureties made by the property owner of the tire storage facility and deemed suitable by the Planning Board shall be required to ensure the availability of adequate funds for clean-up operations or final closure of the facility as may be required.

1.10.3.29.11. Exemptions

The following tire facilities are exempt from the requirements of these rules:

1.10.3.29.11.1. Accumulations of tires at retail tire dealers where the tire stockpiles enclose an area that is less than twenty-five hundred (2,500) square feet and provided the tires are periodically removed from the site.

1.10.3.29.11.2. Accumulation of tires at commercial businesses which in the course of business remove tires from motor vehicles where the tire stockpiles enclose an area that is less than twenty-five hundred (2,500) square feet and provided the tires are periodically removed from the site.

1.10.3.29.11.3. Accumulations of tires at tire retreading businesses where the tire stockpiles enclose an area that is less than five thousand (5,000) square feet and provided unusable tires are periodically removed from the site.

1.10.3.29.11.4. Accumulations of tires utilized in agricultural activities provided the tires are kept on the site of use.

1.10.3.29.11.5. Portable tire shredders located for thirty (30) days or less at a licensed solid waste facility for the purpose of shredding the facility's accumulation of stockpiled tires.

1.10.3.30. Wind Energy Facilities

1.10.3.30.1. A single wind energy facility, consisting of a single tower not over 50 ft in height and a single wind energy generating unit mounted thereon, shall be an allowed use

in any district.

1.10.3.30.2. Clusters of two or more wind energy facilities on a single lot, and facilities exceeding 50 ft in height, shall be permitted only in the Commercial and Rural Districts.

1.10.4. Off-Street Parking and Loading Standards

1.10.4.1. Applicability

Off-street parking and loading shall be provided for each use involving:

- The construction of a new building or structure.
- The construction of an addition of 250 or more square feet of floor area to an existing building or structure.
- The change of use, including the establishment of a Home Occupation, of a part or the whole of any existing building or parcel of land from one category of use to another (e.g., residential to retail, office to restaurant, etc.)
- The establishment of a mobile home park.

1.10.4.1.1. Exceptions: Off-Street Parking Requirements on the Union Common

The Planning Board may exempt the strict application of the off-street parking requirements in 1.10.4.3.2 and 1.10.4.3.6 for the lots in the Village District that front directly on the Union Common, from 6 Burkett Road to 52 Burkett Road and from 281 Common Road to 343 Common Road, provided that the applicant demonstrates that he/she has provided for as many off-street parking spaces as possible for employees and patrons.

1.10.4.2. Off-Street Parking Standards (Residential)

1.10.4.2.1. Single-Family and Two-Family Dwellings

Single-family and two-family dwellings shall be provided with two (2) off-street parking spaces per dwelling unit.

1.10.4.2.2. Multi-Family Dwellings

Multi-family dwellings shall meet the following standards:

- Efficiency or studio apartments: 1.5 spaces/unit
- One-bedroom units: 2.0 spaces/unit
- Two or more bedroom units: 2.0 spaces/unit
- Units restricted to the elderly: 1.0 space/unit

1.10.4.3. Off-Street Parking Standards (non-residential)

1.10.4.3.1. Parking Space Size

An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space.

1.10.4.3.2. Single Use per Space

No required parking space shall, for the purposes of this Ordinance, serve more than one use.

The Planning Board may grant a waiver from the strict application of this regulation under the circumstances specified in 1.10.4.1.1. The Appeals Board may grant a variance from the strict application of this regulation under the circumstances specified in 1.12.5.9.9.

1.10.4.3.3. Entrance and Exit Restrictions

See Access Management Standards 1.10.9.

1.10.4.3.4. Entrance and Exit Approvals

All driveway entrances and exits shall be approved by the Road Commissioner.

1.10.4.3.5. Maneuvering Space Requirements

Parking areas with more than two parking spaces shall be so arranged that vehicles can be turned around within such areas without backing into the street.

1.10.4.3.6. Number of Spaces Required

The number of parking spaces required for various types of commercial and industrial establishments is as listed in Table 1.10-4. The Planning Board may grant a waiver from the strict application of this regulation under the circumstances specified in 1.10.4.1.1. The Appeals Board may grant a variance from the strict application of this regulation under the circumstances specified in 1.12.5.9.

1.10.4.4. Off-Street Loading Standards

1.10.4.4.1. Loading Facilities To Be On Site

In any district where permitted, commercial or industrial uses shall provide, if necessary, off-street loading facilities located entirely on the same lot as the building or use so that trucks, trailers, and containers shall not be located for loading or storage upon any public way.

1.10.4.4.2. Loading Bay Requirements

Retail, wholesale, and industrial operations with a gross floor area of more than two thousand (2,000) square feet shall provide one loading bay, with a minimum dimension of fourteen feet by fifty feet (14' x 50'), for each sixty thousand (60,000) square feet of floor area or fraction thereof. Any required bay or bays shall be in addition to the required off-street parking.

1.10.4.5. Landscaping of Parking Areas

In addition to the off-street parking spaces and loading bays required by this Ordinance, the following minimum standards for landscaping of parking areas shall apply:

1.10.4.5.1. Where a parking area abuts a public right-of-way, a continuous strip of

landscaping of a minimum of eight (8) feet in width along the public right-of-way within the parking area shall be provided and properly maintained, except that driveways shall be kept open. For purposes of traffic safety, any landscaping shall not interfere with sight distances or other aspects of traffic safety.

1.10.4.5.2. In addition to the area required for parking spaces, loading bays, and the landscaping required in 1.10.4.5, parking lots containing twenty (20) or more spaces shall include within the parking lot no less than forty (40) square feet of vegetated permeable unpaved area per ten (10) spaces.

1.10.4.5.3. Parking areas must also be screened along lot lines bordering institutional or residential uses. Screening shall consist of a landscaped area at least six (6) feet wide, densely planted with a mixture of deciduous and evergreen trees and shrubs, and shall create an effective visual barrier.

Table 1.10-4 Minimum Required Off-Street Parking	
Activity	Minimum Required Parking
Amusement Center	1 space / 3 amusement devices
Auto Service Station or Repair Garage	1 space / 1,000 sq. ft. lot area
Bank	1 space / 150 sq. ft. floor area
Barber/Beauty Shop	3 spaces / licensed operator
Boarding House	1 space / 2 beds
Building Material Storage & Sales Facility	2 spaces / employee
Child Care Facility	1 space / 4 children
Church	1 space / 3 seats
Commercial Recreation Facility	1 space / 100 sq. ft. floor area
Commercial School (dance, art, ceramics)	1 space / 50 sq. ft. floor area
Convalescent/Nursing Home	1 space / 2 beds
Flea Market	3 spaces / table
Funeral Parlor	1 space / 50 sq. ft. floor area
Hospitals	1 space / 2 beds
Hotel, Motel, Inn, Bed & Breakfast	1 space / sleeping room
Kennel	1 space / 200 sq. ft. floor area
Library, Museum, Art Gallery	1 space / 150 sq. ft. floor area
Manufacturing Plant	1 space / employee
Medical Offices (MDs, ODs, Dentists, etc.)	1 space / 100 sq. ft. net floor area
Membership Club	3 spaces / 100 sq. ft. floor area
Mixed Use	Total of individual uses
Nightclub, Disco, Bar, Tavern, Pub	1 space / 3 seating capacity
Other Professional Offices	1 space / 250 sq. ft. floor area
Photo/Testing Laboratory	1 space / 300 sq. ft. floor area
Repair Establishments (appliance, tool, small engine)	1 space / 150 sq. ft. floor area
Retail Store	1 space / 300 sq. ft. floor area
Restaurant	1 space / 3 seating capacity
School	1 space / 15 classroom seats
Theatre (indoor)	1 space / 3 seating capacity
Veterinarian Clinic, Animal Hospital	5 spaces / veterinarian
Warehouse	1 space / 500 sq. ft. floor area
All uses not specifically listed or able to be placed into one of the above categories.	Sufficient number of parking spaces to eliminate the necessity for on street parking, as determined by the Planning Board or by the Code Enforcement Officer as specified in 1.10.1.

Note: Where floor space is to be used in calculating the number of required parking spaces, gross floor space shall be used unless otherwise noted.

1.10.5. Traffic Visibility

1.10.5.1. Height Restrictions Within Required Setback

When essential for public traffic safety, property owners will be required to keep vegetation, signs, or other obstructions below three (3) feet from ground level in the required setback.

1.10.5.2. Height Restrictions Near Intersections

For purposes of traffic safety, no building, structure wall, berm, or fence may be erected and no vegetation other than shade trees may be maintained above the height of three (3) feet above street level within forty (40) feet of the intersection of the center line of intersecting streets.

1.10.6. Lighting

1.10.6.1. Permitted Lighting

Lighting may be installed which serves security, safety, or operational need.

1.10.6.2. Lighting Constraints

All lighting shall be installed so as to prevent direct or glaring lights on the public way(s) or abutting property.

1.10.7. Noise

1.10.7.1. Muffling of Excessive Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume.

1.10.7.2. Maximum Sound Levels

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

Sound from any source controlled by this Ordinance shall not exceed the following limits at the property line of said source:

	7 AM-7 PM	7 PM- 7 AM
Industrial District	60	50

	7 AM-10 PM	10 PM -7 AM
Commercial District	60	40
Village District	50	40
Rural District	50	40

Sound pressure level limits measured in dB(A)s.

1.10.7.3. Noise Limits Across District Boundaries

Where the emitting and receiving premises are in different districts, the stricter district shall apply to any regulated noise entering that district. Noise shall be measured with a sound level meter meeting the standards of the American National Standards Institute, ANSI S1.Z-1983 American Standard Meter for the Physical Measurements of Sound, or its current replacement. Meter shall be recently calibrated.

1.10.7.4. Construction Activities on Industrial Property

No construction activities shall take place on an industrial property between 7:00 PM and 7:00 AM which exceed limits set above.

1.10.7.5. Exempted Activities

The following activities shall be exempt from these regulations:

1.10.7.5.1. Sounds emanating from traffic on public roads.

1.10.7.5.2. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, and any other emergency activity.

1.10.7.5.3. Sounds emanating from agricultural or household equipment, including but not limited to lawnmowers, power tools, etc.

1.10.8. Dust, Fumes, Vapors, Gases, and Odors

1.10.8.1. Emissions Beyond Lot Lines

Emission of dust, dirt, fly ash, fumes, odors, vapors or gases which could be injurious to human health, animals, or vegetation or which could soil or stain persons or property at any point beyond the lot line of the commercial or industrial establishment creating that emission shall be prohibited.

1.10.8.2. Reporting of Emissions Sources

The location and vertical height of all commercial or industrial exhaust fans, vents, chimneys, or any other sources discharging or emitting smoke fumes, gases, vapors, odors, scents or aromas shall be shown on a plan with a description of the source materials.

1.10.9. Access Management Standards (Adopted June 18, 2012)

1.10.9.1. Purpose

The purposes of these access management standards are to regulate access onto municipal roadways within the Town of Union in order to protect the safety of motorists, passengers and pedestrians by reducing collisions, to protect the road system from the negative impacts of drainage, to preserve vehicular mobility and economic productivity related to roadway transportation, and to minimize the long-term cost of constructing new roadway capacity.

1.10.9.2. Applicability

These standards apply to all proposed public and private accesses (driveways and entrances) onto municipal roadways within the Town of Union.

These standards also apply to the alteration of existing entrances and driveways onto municipal roadways, and to changes in use on the property serviced by such entrances and driveways.

Note: Access onto non-municipal roadways, i.e., state and state-aid roads (outside of compact urban areas) is regulated by the Maine Department of Transportation (Maine DOT) through its Highway Driveway and Entrance Rules.

1.10.9.3. Administration

The Code Enforcement Officer administers these access management standards with assistance from the Road Commissioner or designee. The Code Enforcement Officer determines if a proposed development requires approval from the Planning Board.

1.10.9.4. Definitions

See Article 11. Definitions.

1.10.9.5. Nonconformance

Nothing in these access management standards shall prohibit the repair, improvement, or modernization of lawful nonconforming driveways or entrances that were constructed prior to the adoption of these access management standards provided that such repairs, improvement or modernization is done consistent with the requirements of these access management standards.

1.10.9.6. Sight Distance Requirements

Sight Distance- The sight distance for access points must meet or exceed the distances listed in the Table of Sight Distance Minimums. Sight distance is measured in accordance with its definition. The municipality may require up to 50% greater sight distances when at least 30% of the traffic using the access point will be by larger vehicles, like trucks and buses, which are typically 40 feet in length or longer.

Table of Sight Distance Minimums	
Posted Speed (MPH)	Sight Distance Minimum (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570

1.10.9.7. Spacing Requirements

All new access points must be separated from other existing or proposed access points in accordance with the minimum spacing standards set forth in the Table of Minimum Access Point Spacing Standards.

Access point spacing is measured from the edge of a proposed access point to the closest edge of adjacent existing access points, excluding radii. Access points located directly across the roadway (opposite side) from a proposed access point are not counted in applying

the spacing standard.

Table of Minimum Access Point Spacing Standards	
Posted Speed (MPH)	Spacing Standards (Feet)
20	60
25	70
30	75
35	85
40	175
45	265
50	350
55	525

1.10.9.8. Corner Clearance

The minimum corner clearance for access points onto roadways must be 75 feet for un-signalized intersections and 125 feet for signalized intersections except that the municipality may require increased corner clearance if the municipality reasonably determines that the proposed access point will significantly impact public safety or cause a reduction in posted speed.

1.10.9.9. Access Point Width

If 30% or less of the traffic projected to use the proposed entrance will be larger vehicles (trucks or buses, typically 40 feet in length or longer), the width of a two-way driveway within the road right-of-way must be between 22 and 30 feet inclusive. If more than 30% of the traffic projected to use the proposed driveway will be larger vehicles, the width of a two-way driveway within the road right-of-way must be between 30 and 42 feet inclusive. Driveways must be designed in accordance with the Maine DOT Standard Details. The access width will be the minimum necessary to accommodate the design vehicle.

No single or two-family access shall have a width less than 9 feet or more than 16 feet at the public road right-of-way. The access opening, including flares, shall not be more than 1.5 times the width of the access at the right-of-way line.

1.10.9.10. Throat Length

There shall be a minimum of 20 feet of throat length for entering and exiting vehicles at the intersection of an access point and pavement of the public road or service drive as measured from the pavement edge. For accesses that will serve between 100 and 400 vehicles in the peak hour (two-way traffic volume) the accesses shall provide at least 60 feet of throat length. For accesses that will serve over 400 vehicles per peak hour (two-way traffic volume) and for all accesses controlled by a traffic signal, adequate throat length shall be determined by a traffic impact study.

1.10.9.11. Separator Strips

Separator strips must be installed between the parking area and the roadway and along the throat. The separator strip must extend away from the roadway to the greater of (1): 5 feet

from the right-of-way limits, or (2): in areas where the right-of-way limits are defined by wrought portion, 7 feet from the edge of a clearly evident shoulder. The property owner must maintain any vegetation within the separator strip such that it does not interfere with the sight distance at the driveway. In areas where sidewalks exist, curbing or wheel stops must be provided to prevent parking vehicles from interfering with pedestrian flow.

1.10.9.12. Deceleration Lanes and Tapers

Where access point volumes are expected to exceed 100 peak hour directional trips per hour, a right- turn taper, deceleration lane and/or left-turn bypass lane may be required. Construction of access points along deceleration lanes and tapers is discouraged due to the potential for vehicular conflicts.

1.10.9.13. Access Points per Lot

Access points shall be determined by the appropriate authority with safety in mind.

1.10.9.14. One-Way Accesses

If a one-way system is proposed and the predominant traffic volume is truck traffic, the driveway will be configured on the minimum angle that permits the truck to enter or leave the roadway safely and smoothly. Otherwise, all driveways must be configured perpendicular to the roadway for at least the length of the design vehicle.

A physical separation of curbing, ditching, grass or other landscaping must be used for one-way driveways and must be designed and constructed to prevent adjacent one-way driveways from becoming one entrance in practice. Both portions of a one-way access on a single lot must be separated from another one-way access by at least 12 feet. Both portions of a one-way driveway abutting a sidewalk must have a minimum separation of at least 18 feet and allow for 7-foot terminal ends and at least a 4-foot header in between.

A one-way entrance abutting a curbed, non-sidewalk section must have a minimum separation of at least 12 feet and allow for two 4-foot terminal ends separated by at least a 4-foot header.

1.10.9.15. Access Relationship to Lot Line

No part of an access shall be located closer than 5 feet from a side or rear lot line unless it is a common or shared access. This separation is intended to help control stormwater runoff, permit snow storage on site, and provide adequate area for any necessary on-site landscaping.

1.10.9.16. Existing Accesses

Except for a shared access, existing accesses that do not comply with the requirements of the access management standards shall be closed when an application for a change of use requiring a land use/site plan review permit is submitted and once approval of a new means of access under these access management standards is granted. A closed access shall be graded and landscaped to conform to adjacent land and any curb cut shall be filled in with curb and gutter per the standards of the applicable road authority.

1.10.9.17. Access Intersection Angle/Radius of Edge

To the maximum extent practical, the access must be constructed perpendicular (90 degrees) to the roadway at the access point, but in no case less than 75 degrees. Except where curbing exists or is proposed, the minimum radius on the edges of an access must be sufficient to allow the design vehicle to enter the driveway without encroaching into the path of exiting vehicles in accordance with the Maine DOT Standard Details. Driveways designed for right turns only must be designed to the greatest extent possible to prohibit illegal traffic movements.

1.10.9.18. Turnaround Area/Parking

Accesses will be designed such that all maneuvering and parking of any vehicles will take place outside of the roadway right-of-way and such that vehicles may exit the premises without backing onto the roadway or roadway shoulder. All accesses must have a turnaround area with a width of at least 8 feet and a length of at least 15 feet or the length of the design vehicle, whichever is greater.

1.10.9.19. Retrofits

When the owner of a property with an existing, nonconforming access point applies for a permit to upgrade or change the use of the property and/or the access point, the property owner may be required to establish a retrofit plan. The objectives of the retrofit plan will be to minimize the traffic and safety impacts of development by bringing the number, spacing, location, and design of accesses into conformance with the standards and requirements of these access management standards, to the extent possible without imposing unnecessary hardship on the property owner. The retrofit plan may include:

- elimination of one or more access points if there are multiple access points onto a site
- realignment or relocation of access points
- provision of shared access points and/or cross parking lot connection
- access by means of a service drive or frontage road
- restriction of vehicle movements (e.g., elimination of left-turns in and out)
- relocation of parking
- traffic demand management (e.g., a reduction in peak hour trips)
- signalization
- such other changes as may enhance traffic safety

1.10.9.20. Traffic Signals

Access points on arterial and collector streets may be required to be signalized in order to provide safe and efficient traffic flow. Any signal shall meet the spacing requirements of the applicable road authority. A development may be responsible for all or part of any right-of-way, design, hardware, and construction costs of a traffic signal if it is determined that the signal is warranted by the traffic generated from the development. The procedures for signal installation and the percent of financial participation required of the development in the installation of the signal shall be in accordance with the applicable criteria of the

jurisdictional authority, as set in statute or ordinance, including impact fee schedules.

1.10.9.21. Shared Access

Shared or joint use of an access is strongly encouraged. The shared access shall be constructed along the midpoint between the two properties unless a written easement is provided that allows traffic to travel across one parcel to access another, and/or access the municipal roadway.

Shared accesses shall be recorded as an access easement and shall constitute a covenant running with the land. Operating and maintenance agreements of shared accesses should be recorded with the deed.

1.10.9.22. 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 approval by the Planning Board. The Planning Board may reduce by 10% the parking space requirements as set forth in 1.10.4.3.2 and Table 1.10-4 for parking lots that are connected if peak demand periods for proposed land uses do not occur at the same periods.

1.10.9.23. Joint and Cross Access

Adjacent commercial or office properties classified as major traffic generators (e.g., school, shopping center, or office park), shall provide a cross access for vehicles and pedestrians to allow circulation between sites unless environmental constraints are present. A system of joint use accesses and cross access easements shall be established wherever feasible and the building site shall incorporate the following:

1.10.9.23.1. A continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation consistent with the access management classification system and standards.

1.10.9.23.2. A design speed of 10 mph and sufficient width to accommodate two-way travel aisles designed to accommodate automobiles, service vehicles, and loading vehicles.

1.10.9.23.3. Stub-outs and other design features to make it visually obvious that the abutting properties may be tied in to provide cross-access via a service drive.

1.10.9.23.4. A unified access and circulation system plan that includes coordinated or shared parking areas is encouraged wherever feasible.

1.10.9.23.5. Pursuant to this section, property owners shall:

1.10.9.23.5.1. Record an easement with the deed allowing cross access to and from other properties served by the joint use driveways and cross access or service drive.

1.10.9.23.5.2. Record an agreement with the deed that remaining access rights along the thoroughfare will be dedicated to the municipality and pre-existing access points will be closed and eliminated after construction of the joint-use driveway.

1.10.9.23.5.3. Record a joint maintenance agreement with the deed defining maintenance responsibilities of property owners.

1.10.9.24. Phased Development

Development sites under the same ownership or consolidated for the purposes of development and comprised of more than one building site shall not be considered separate properties in relation to the access standards of this code. The number of connections permitted shall be the minimum number necessary to provide reasonable access to these properties, not the maximum available for that frontage. All necessary easements, agreements, and stipulations required under 10 these access management standards shall be met. This shall also apply to phased development plans.

1.10.9.25. Transit Access

In commercial or office zones/districts where transit service is available or is planned to be available within five years, provisions shall be made for adequate transit access, in the form of turn around loops or turnout bays. At a minimum, in the case of a loop or cul-de-sac, entrance curves shall have a radius of 35 feet, and the internal circle shall have an inside radius of 30 feet and an outside radius of 52.5 feet. In the case of turnout bays, the curve radius shall be 35 feet the distance from the roadside edge to the inside edge of the outside radius shall be 52.5 feet.

1.10.9.26. Waivers

Access standards may be relaxed or waived by the Planning Board only as provided in this section.

1.10.9.26.1. Standards That May Not Be Waived

The corner clearance standards and turnaround area/parking standards.

1.10.9.26.2. Standards That May Be Waived

All other standards may be waived in accordance with the provisions of this section.

1.10.9.26.3. Criteria for Granting Waivers

Waiver requests will be granted if the applicant demonstrates, to the satisfaction of the municipality, that: (i) the waiver will not significantly detract from public safety, (ii) the proposed driveway meets the standards to the maximum extent practicable, and (iii) there is no feasible alternative.

1.10.9.26.3.1. In determining that the waiver will not significantly detract from public safety, the municipality must consider such factors as crash rates, traffic volumes, road

geometries, types and frequency of traffic moving to and from existing uses within 1,000 feet of the proposed access point.

1.10.9.26.3.2. In determining practicability and feasibility, the municipality will consider the availability and cost of alternative access locations and designs in relation to the proposed use.

1.10.9.26.3.3. In cases involving alterations or changes of use of existing access(es), the municipality may grant waiver requests if it determines that the alterations to the access(es) will likely result in a net gain to public safety or will result in a reduction in non-conformity with these access management standards.

1.10.9.26.3.4. In cases involving double frontage lots, the municipality will consider the length of frontage on the regulated road, the intensity of traffic generated by the proposed use, the geography along the frontage of the other public way, and the distance to the other public way.

1.10.9.26.4. The spacing standards in the Table of Minimum Access Point Spacing Standards may be waived only to the extent that lots of record existing as of the adoption of these access management standards, that do not have access to another public way and do not have sufficient lot frontage to meet these spacing standards, may be allowed access if the applicant meets the following criteria, in addition to the above-referenced waiver criteria:

1.10.9.26.4.1. The applicant meets the criteria of granting waivers set forth in these access management standards.

1.10.9.26.4.2. The proposed access is located in an area designated for growth in the municipality's comprehensive plan.

1.10.9.26.4.3. The proposed access will not have an unreasonable adverse impact on the regulated road such that the speed limit must be reduced to accommodate new traffic expected to be generated.

1.10.9.26.4.4. Sharing an access with an adjacent lot is not practicable.

1.10.9.27. Variances

See 1.12.5.9 for Variances.

1.10.9.28. Appeals

See 1.12.7 for Appeals.

1.10.9.29. Violations and Penalties

See 1.12.8 Violations and Penalties.

1.11. ENVIRONMENTAL REGULATIONS

1.11.1. Suitability of Soils

1.11.1.1. Applicability of Maine State Plumbing Code Requirements

In all Districts, the approval of building permit applications shall be subject to written evidence of satisfactory subsurface soil conditions. The Maine State Plumbing Code requirements shall be met.

1.11.1.2. Applicability of Maine DEP Requirements

The requirements and standards of the State of Maine Department of Environmental Protection shall be met.

1.11.2. Land Not Suitable for Development

1.11.2.1. Below High-Water Mark

Land which is situated below the normal high water mark of any water body.

1.11.2.2. Within 100-Year Flood Plain

Land which is located within the 100-year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the application shows written proof through materials prepared by a Registered Land Surveyor that the property in question lies at least one (1) foot above the 100-year flood level. The elevation of fill or made land shall not be considered.

1.11.2.3. Part of Right-of-Way or Easement

Land which is part of a right-of-way or easement, including utility easements.

1.11.2.4. Deficient Under Maine State Plumbing Code

Land which does not meet the requirements of the Maine State Plumbing Code.

1.11.3. High Elevation Areas Overlay District

1.11.3.1. Boundaries

All areas within the 400-ft or higher elevation contours as depicted in the United States Geodetic Survey (USGS) 7.5-minute (1:24,000 scale) quadrangle map covering the Town of Union, or in the equivalent elevation layer of the State of Maine Geographic Information System Data Base.

1.11.3.2. Purpose

To protect sensitive high-elevation areas from high-density or other high-impact development, and to protect the rural character of the Town as reflected in the views of the hills from lower-lying regions.

1.11.3.3. Special Standards

1.11.3.3.1. Allowed Uses

Land uses shall be limited to residential, agricultural, communications structures, home occupations, and forest management activities

1.11.3.3.2. Minimum Lot Size

The minimum lot size shall be three (3) acres, and residential densities shall not exceed one (1) dwelling unit per three (3) acres.

1.11.3.3.3. Maximum Lot Coverage

Maximum lot coverage by structures shall be 5 percent.

1.11.4. Control of Erosion

No person shall perform any act or use the land in a manner which would cause significant erosion.

1.11.5. Water Quality

1.11.5.1. Discharge Into Body of Water Prohibited

No building, structure, activity, or use shall discharge untreated or treated liquid, gaseous, or solid materials directly into a body of water.

1.11.5.2. Storage of Contaminating Materials Prohibited

There shall be no storage of liquid, gaseous, or solid materials which by their volume, toxicity, temperature, or location will run off from or percolate into surrounding soil and groundwater.

1.11.5.3. Storage of Fuel, Chemicals, or Industrial Waste

All outdoor storage facilities for fuel, chemicals, or industrial waste shall be located on impervious pavement and shall be enclosed by an impervious dike high enough to contain the total volume of material kept within the storage area and prevent spillage onto or leakage into the ground surrounding the paved storage area. Storage tanks for home heating oil and diesel fuel, not exceeding two hundred seventy-five (275) gallons in size, are exempted from this requirement in situations where neither a high seasonal water table (within fifteen [15] inches of the surface) nor rapidly permeable sandy soils are involved.

1.11.5.4. 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 a public storm drain system. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five (25) year storm frequency.

1.11.6. Clearcutting

1.11.6.1. Clearcutting Near Public Right-of-Way

There shall be no clearcutting of trees in an area of over five (5) acres within twenty (20) feet of any public right-of-way, except for clearing for approved construction or with written approval of the Planning Board for agricultural purposes.

1.11.6.2. Clearcutting Within Shoreland Areas

Clearcutting of trees within shoreland areas shall be governed by the standards set forth in the Shoreland Zoning provisions in this Ordinance.

1.11.6.3. Special Clearcutting Variance

Timber harvesting operations not in strict conformance with the stated provisions of this section may be authorized by the Board of Appeals under the circumstances specified in 1.12.5.9.

1.12. ADMINISTRATION

1.12.1. General

The responsibility for regulating the use of land and buildings and for approving proposals for development or construction within the Town of Union is divided among the Planning Board, the Zoning Board of Appeals (ZBA), and the Codes Enforcement Office. Each of these three entities plays a distinct role, and the following Sections describe in more detail the respective roles.

1.12.2. Applicability

These administrative provisions shall apply to all land use and building related Codes now in affect or as may subsequently be adopted within the Town of Union. This includes, but is not limited to, this Land Use Ordinance, the Shoreland Zoning ordinance provisions, the Subdivision Ordinance, the Site Plan Review ordinance provisions, the Sludge Ordinance, and the Metallic Mining Ordinance, as well as applicable Building and Construction Codes.

1.12.3. Role of the Codes Enforcement Officer

The Codes Enforcement Officer (CEO) is responsible for the day-to-day administration of all Land Use and Building Ordinances in the Town of Union. The CEO shall be responsible for compliance with the terms and conditions of all land use related Ordinances and Building Codes, to see that approvals required by any applicable Ordinance are obtained, and that any conditions attached to those approvals are carried out, and that appropriate enforcement action is taken with regard to violation of any Ordinance provisions or conditions of approval.

The CEO shall serve as the coordinator of all applications submitted to the Town for consideration by the Planning Board or the Zoning Board of Appeals, and shall work with the applicant to provide necessary information and submissions that appropriately address the approval standards of that particular application.

The CEO shall be appointed by the Board of Selectmen to a specific term in accordance with the provisions of 30-A M.R.S.A. § 2601-A and the CEO shall be certified within twelve (12)

months of beginning employment as required by 30-A M.R.S.A. § 4451(1).

1.12.4. Planning Board

1.12.4.1. Planning Board Established

Pursuant to Home Rule authority granted to municipalities in the State of Maine under the Maine Constitution, Article VIII, and 30-A M.R.S.A. § 3001 et. seq., the Planning Board of the Town of Union is hereby created and established.

1.12.4.2. Composition, Appointment and Term

The Planning Board shall consist of seven (7) full members who shall be appointed by the Municipal Officers and sworn into office by the Town Clerk or other person authorized to administer oaths. The term of office for each Planning Board member shall be five (5) years and those terms in place at the time of the adoption of this amendment shall continue for the remainder of each appointed term.

1.12.4.3. Vacancies and Removal

When there is a permanent vacancy on the Union Planning Board, the Municipal Officers should within sixty (60) days of vacancy occurring, appoint a person to serve for the unexpired term. A vacancy shall occur when a Union Planning Board member resigns, ceases to be a legal resident of the Town of Union, passes away or fails, without good cause, to attend 75% of the regularly scheduled Planning Board meetings during the preceding twelve (12) months. The Union Selectmen may remove members of the Planning Board by unanimous vote, for cause, after due process including notice and hearing.

1.12.4.4. Qualifications

All members of the Planning Board must be residents of the Town of Union and registered voters. A member of the Board of Selectmen, Zoning Board of Appeals member, or the spouse of a member of the Board of Selectmen or a Planning Board member may not be a member of the Planning Board.

1.12.4.5. Officers

1.12.4.5.1. The officers of the Planning Board shall be a chairman, vice chairman, and such other officers as the Board may choose from its membership.

1.12.4.5.2. Officers shall be elected at the first regularly scheduled Planning Board meeting following the Annual Town Meeting.

1.12.4.5.3. The term of office for officers is one (1) year; officers may succeed themselves in office if so elected.

1.12.4.5.4. The chairman is responsible for calling the meetings of the Planning Board, working with the Codes Enforcement Officer to establish agendas for the meetings, presiding at meetings, and representing the Planning Board before the Board of Selectmen

and other Town groups.

1.12.4.5.5. The vice chairman is responsible for carrying out the duties of the chairman in his/her absence or incapacity.

1.12.4.6. Meetings of the Board

The chairman may schedule meetings as necessary. The chairman shall call a meeting of the Planning Board within seven (7) days upon written request of any three (3) members of the Planning Board.

All meetings of the Planning Board must be announced to the public at least seventy-two (72) hours prior to the start of the meeting by either posting, advertising, or mailing notices. A notice of the Planning Board agenda must be disseminated in a manner reasonably calculated to notify the general public. If the meeting is a public hearing of the Board, then a notice of hearing shall be mailed, at least ten (10) days in advance of the hearing, to the applicant, to all abutters, and to all property owners within two hundred fifty feet (250') of any property line of the property which is the subject matter of the hearing. All meetings of the Planning Board are open to the public, except that the Planning Board may go into executive session as permitted under the Maine Freedom of Information Act.

1.12.4.7. Quorum. Rules of Procedure

No official business shall be conducted at a Union Planning Board meeting without a quorum, which shall consist of four (4) Planning Board members; if there is fewer than a quorum in attendance, those in attendance may decide to adjourn the meeting to another date certain. The Planning Board may establish rules and procedures that will govern the conduct of meetings and other business.

1.12.4.8. Conflict of Interest

A member of the Planning Board may not vote or participate in any matter in which he/she has a direct or indirect financial or any other interest that might be interpreted as affecting the member's ability to fairly and impartially consider and vote on the pending matter. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon must be decided by a majority vote of the members, except the member who is being challenged. A member of the Planning Board may not represent any third party in matters coming before the Planning Board.

1.12.4.9. Powers and Duties

1.12.4.9.1. To advise the Board of Selectmen on matters relating to land use and development within the Town.

1.12.4.9.2. When required, review a Comprehensive Plan and periodic revisions for the growth and development of the Town, and to submit them to the Town Meeting with the Planning Board's recommendation.

1.12.4.9.3. To advise the Board of Selectmen on matters relating to land-use regulations

and to review or initiate requests for changes in the Land Use Ordinance.

1.12.4.9.4. To act on request for subdivision approval for the subdivision of land in accordance with the Subdivision Ordinance and 30-A M.R.S.A. § 4401 et. seq.

1.12.4.9.5. To act on requests for Site Plan Approval in accordance with the Site Plan Review provisions.

1.12.4.9.6. To act on requests for Mineral Extraction Operations Permits in accordance with the Mining Activity Ordinance.

1.12.4.9.7. To act on requests for land use approvals as required under Union Ordinances.

1.12.4.9.8. To perform such other duties and exercise such other powers as may be provided in Union Ordinances or under the laws of the State of Maine.

1.12.4.10. Support Services

The Planning Board may obtain goods and services necessary to its proper function within the limits of appropriations made for those purposes.

1.12.4.11. Misrepresentation

The Planning Board retains the right to rescind any approval if further information or additional investigation reveals a misrepresentation of the information presented to the Planning Board.

1.12.5. Zoning Board of Appeals

1.12.5.1. Zoning Board of Appeals Established

Pursuant to Home Rule authority granted to municipalities in the State of Maine under the Maine Constitution, Article VIII, and 30-A M.R.S.A. § 3001 et. seq., the Zoning Board of Appeals of the Town of Union is hereby created and established.

1.12.5.2. Composition, Appointment and Term

The Zoning Board of Appeals shall consist of seven (7) full members who shall be appointed by the Municipal Officers and sworn into office by the Town Clerk or other person authorized to administer oaths. The term of office for each Zoning Board of Appeals member shall be five (5) years and those terms in place at the time of the adoption of this amendment shall continue for the remainder of each appointed term.

1.12.5.3. Vacancies and Removal

When there is a permanent vacancy on the Union Zoning Board of Appeals, the Municipal Officers should within sixty (60) days of vacancy occurring, appoint a person to serve for the unexpired term. A vacancy shall occur when a Zoning Board of Appeals member resigns, ceases to be a legal resident of the Town of Union, passes away or fails, without good cause, to attend 75% of the regularly scheduled Zoning Board of Appeals meetings during the preceding twelve (12) months. The Union Selectmen may remove members of the Zoning

Board of Appeals by unanimous vote, for cause, after due process including notice and hearing.

1.12.5.4. Qualifications

All members of the Zoning Board of Appeals must be residents of the Town of Union and registered voters. A member of the Board of Selectmen, Planning Board member, or the spouse of a member of the Board of Selectmen or a Zoning Board of Appeals member may not be a member of the Zoning Board of Appeals.

1.12.5.4.1. The officers of the Zoning Board of Appeals shall be a chairman, vice chairman, and such other officers as the Board may choose from its membership.

1.12.5.4.2. Officer shall be elected at the first regularly scheduled Zoning Board of Appeals meeting following the Annual Town Meeting.

1.12.5.4.3. The term of office for officers is one (1) year; officers may succeed themselves in office if so elected.

1.12.5.4.4. The chairman is responsible for calling the meetings of the Zoning Board of Appeals, working with the Codes Enforcement Officer to establish Agendas for the meetings, presiding at meetings, and representing the Zoning Board of Appeals before the Board of Selectmen and other Town groups.

1.12.5.4.5. The vice chairman is responsible for carrying out the duties of the chairman in his/her absence or incapacity.

1.12.5.5. Meetings of the Board

The chairman may schedule meetings as necessary. The chairman shall call a meeting of the Zoning Board of Appeals within seven (7) days upon written request of any three (3) members of the Zoning Board of Appeals.

All meetings of the Zoning Board of Appeals must be announced to the public at least seventy-two (72) hours prior to the start of the meeting by either posting, advertising, or mailing notices. A notice of the Zoning Board of Appeals agenda must be disseminated in a manner reasonably calculated to notify the general public. If the meeting is a public hearing of the Board, then a notice of hearing shall be mailed, at least ten (10) days in advance of the hearing, to the applicant, to all abutters, and to all property owners within two hundred fifty feet (250') of any property line of the property which is the subject matter of the hearing.

All meetings of the Zoning Board of Appeals are open to the public, except that the Zoning Board of Appeals may go into executive session as permitted under the Maine Freedom of Information Act.

1.12.5.6. Quorum. Rules of Procedure

No official business shall be conducted at a Union Zoning Board of Appeals meeting without a quorum, which shall consist of four (4) Zoning Board of Appeal members; if there is fewer

than a quorum in attendance, those in attendance may decide to adjourn the meeting to another date certain. The Board may establish rules and procedures that will govern the conduct of its meetings and other business.

1.12.5.7. Conflict of Interest

A member of the Zoning Board of Appeals may not vote or participate in any matter in which he/she has a direct or indirect financial or any other interest that might be interpreted as affecting the member's ability to fairly and impartially consider and vote on the pending matter. Any question of whether a particular issue involved a conflict of interest sufficient to disqualify a member from voting thereon must be decided by a majority vote of the members, except the member who is being challenged. A member of the Zoning Board of Appeals may not represent any third party in matters coming before the Zoning Board of Appeals.

1.12.5.8. Powers and Duties

1.12.5.8.1. Administrative Appeals

To hear and decide appeals where it has been alleged that there is an error in any interpretation, determination, order, requirement or decision made by the Codes Enforcement Officer or a failure to act by the Codes Enforcement Officer or in any other administrative matter involving the Codes Enforcement Officer in the administration of any applicable Land Use or Building related Ordinances of the Town of Union. Administrative appeals shall not include enforcement decisions by the Codes Enforcement Officer or the failure to provide for enforcement. In acting on administrative appeals, the Zoning Board of Appeals may sustain the action or inaction of the Codes Enforcement Officer or may modify or reverse his or her action if the Zoning Board of Appeals decides that the Codes Enforcement Officer was in error.

1.12.5.8.2. Planning Board Appeals

To hear and decide appeals from any final decision of the Planning Board, filed within thirty (30) days of the date of the decision, by any aggrieved party. The appeal shall be on the basis of the record compiled by the Planning Board and additional submissions provided by the appellant and other aggrieved parties and the decision shall be made on the basis of this record and material and shall not be a hearing de novo. The burden of proof shall be on the appellant to demonstrate that the Planning Board has made an error of law, of application of the particular Ordinance, or of fact or interpretation of fact. The hearing on the appeal shall be considered a public hearing and subject to the notice requirements of 1.12.6.5. The Zoning Board of Appeals shall have the power to affirm, reverse, or modified, with or without conditions, the decision of the Planning Board or, if the record is not sufficient or further information needs to be provided, to remand the matter back to the Planning Board for further proceedings.

1.12.5.8.3. Variance Appeals

To hear and decide requests for variances from the strict enforcement of the provisions of the Land Use Ordinance of the Town of Union in accordance with the standards set forth in 1.12.5.9.

1.12.5.8.4. Sign Requirement Appeals

To act upon applications for variances from the sign requirements of 1.10.3.21.

1.12.5.9. Variance Appeals

Variances may be permitted only under the following conditions:

1.12.5.9.1. Variances may be granted only from dimensional requirements, including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements; from off-street parking requirements; and from clearcutting requirements.

1.12.5.9.2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

1.12.5.9.3. The Board shall not grant a variance unless it finds that:

1.12.5.9.3.1. The proposed structure or use would meet all other bulk and space requirements except for the specific provision which has created the nonconformity and from which relief is sought; and

1.12.5.9.3.2. The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:

1.12.5.9.3.2.1. That the land in question cannot yield a reasonable return unless a variance is granted;

1.12.5.9.3.2.2. That the need for a variance is due to the unique circumstances of the property and not the general conditions in the neighborhood;

1.12.5.9.3.2.3. That the granting of a variance will not alter the essential character of the locality; and

1.12.5.9.3.2.4. That the hardship is not the result of action taken by the applicant or a prior owner.

1.12.5.9.4. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the Ordinance purposes and provisions 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.

1.12.5.9.5. A copy of each variance request within the Shoreline Zoning District, 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.

1.12.5.9.6. A copy of all variances granted within the Shoreline Zoning District by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

1.12.5.9.7. Conditions of Approval

The Board of Appeals is empowered to impose conditions on the property owner if it finds that such conditions are necessary to protect abutting property owners or the community as a whole from adverse impacts resulting from the granting of a variance.

1.12.5.9.8. Setback Variances

1.12.5.9.8.1. Single-Family Dwellings

The ZBA may, in accordance with 30-A M.R.S.A. § 4353 (4-B), grant a variance to the setback requirement of the space and bulk regulations for a single-family dwelling provided all of the following criteria are met:

1.12.5.9.8.1.1. The single-family dwelling is the primary year-round residence of the person seeking the variance.

1.12.5.9.8.1.2. The granting of the variance will not cause the area of the dwelling to exceed the maximum permissible lot coverage according to the space and bulk regulations.

1.12.5.9.8.1.3. The need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

1.12.5.9.8.1.4. The granting of a variance will not alter the essential character of the locality.

1.12.5.9.8.1.5. The hardship is not the result of action taken by the applicant or a prior owner.

1.12.5.9.8.1.6. The granting of a variance will not substantially reduce or impair the use of abutting property.

1.12.5.9.8.1.7. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

A variance granted under this sub-section may not exceed 20% of the setback requirement.

1.12.5.9.8.2. Other Setback Variances

1.12.5.9.8.2.1. Front Setback

When a proposed structure is abutted on both sides by structures whose front

setback is less than that required, the Board of Appeals may reduce the front setback to that of the structures on the abutting properties.

1.12.5.9.8.2.2. Side Setback

When a proposed structure is abutted on both sides by structures whose side setback is less than that required, the Board of Appeals may reduce the side setback to that of structures on the abutting properties, but in no case to less than 2 ft.

1.12.5.9.9. Special Variance From Single-Use Off-Street Parking Requirement

With regard to the requirements in 1.10.4.3.2, the Board of Appeals may approve the joint use of a parking space by two or more principal buildings or uses when it is clearly demonstrated that the parking space will substantially meet the intent of the requirements by reasons of variation in the time of use by patrons or employees among such establishments, and when a written agreement covering the joint use is provided between the two parties.

1.12.5.9.10. Clearcutting Variances

Timber harvesting operations not in strict conformance with the provisions of 1.11.6 may be authorized by the Board of Appeals after the timber operator has received written approval by a State service forester or a private professional forester registered in the State of Maine that such operations are necessary for proper timber management.

1.12.5.9.11. Limits on Variances

A variance granted by the ZBA expires if the work or change involved has not commenced within six (6) months of the date on which the variance was granted or if the work or change has not been substantially completed within one (1) year of the date of approval, unless otherwise extended by the ZBA.

1.12.5.9.12. Reapplication

If the ZBA denies a variance, a second request of a similar nature cannot be brought before the ZBA within one (1) year of the date of the first request unless, in the opinion of the majority of the ZBA, substantial new evidence can be brought forward or unless the ZBA finds, in its sole and exclusive judgment, that an error of law or misunderstanding of facts have been made.

1.12.5.9.13. Misrepresentation

The ZBA retains the right to rescind any approval of a variance if further information or additional investigation reveals a misrepresentation of the information presented to the ZBA.

1.12.5.9.14. Prior Work

Any construction activity commenced prior to the granting of a required variance is a violation of this Ordinance.

1.12.6. Permits

1.12.6.1. Permit Required

No use may be established nor may any building or structure or any part thereof be constructed, structurally altered, enlarged, moved, or demolished, nor shall other activity be engaged in, until all required permits or approvals from a Town approval authority or any renewal of a discontinued, non-conforming use are issued. No permit or approval may be issued until the proposed use, construction, alteration, or renewal has been determined to comply with all applicable provisions of the Land Use and Building Ordinances of the Town of Union or a decision by the Zoning Board of Appeals has been rendered. Where the activity involves a building or structure, in addition to any other permits or approvals that may be required, a building permit from the Codes Enforcement Officer will be required. In addition, if the building or structure is for occupancy, sewage disposal facilities and a permit for same will be required from the local Plumbing Inspector.

Exempt from this building permit requirement shall be any building not greater than one story in height and with a footprint no larger than 100 sq. ft. An addition which then makes a building exceed 100 sq. ft. triggers a permit for the entire building. Once a building exceeds 100 sq. ft. any addition requires a permit. **Note: This exemption applies only to the permit. All other requirements of the ordinance, including setbacks, apply.**

1.12.6.2. Occupancy Permit

A certificate of occupancy shall be required and obtained from the CEO/BI prior to the occupancy or use of any building, structure or any portion thereof which has been erected, structurally altered or changed in its use or structure, or with regard to the creation of a new use or change in use of any parcel of land or portion thereof currently existing or hereinafter created. Before the issuance of the certificate of occupancy, the CEO/BI shall determine that the proposed use of the building or land conforms to the requirements of all applicable Land Use and Building Ordinances. A change of occupancy that maintains the same land use classification shall not require a certificate of occupancy. Where a building permit or other land use permit is required, an application for a certificate of occupancy shall be filed concurrently with that application and shall clearly state the intended use or uses of the property. The certificate of occupancy may only be issued after a determination that all work on the site and/or structure is in conformance with Code requirements, any approved site plan or subdivision plan, any other applicable Town Ordinances and any conditions of approval imposed on the project. Occupancy without the required certificate shall be deemed to be a violation of this Code and subject to enforcement action as provided in 1.12.8.

The CEO/BI may issue a temporary certificate of occupancy for a period of time not to exceed six (6) months where it has been determined that adequate safeguards are in place to assure the timely completion of the work and the safety of the occupants and/or the general public. The CEO/BI may require the posting of a bond or other financial security or guarantee to assure completion of the project in accordance with its permitting. This shall not apply to any project use or activity that has received site plan approval.

1.12.6.3. Applications

Each applicant for a permit or approval shall submit a written application to the Codes

Enforcement Officer which shall include a scaled site plan, on a form provided by the Town. All applications shall be signed by the owner or owners of property or other person authorizing work certifying that the information on the application is complete and correct.

If the person signing the application is not the owner or lessee of the property, then the person shall submit a letter of authorization from the owner or lessee. All applications shall be dated upon submission to the Codes Enforcement Officer noting upon each application the time and date of its receipt.

1.12.6.4. Processing Applications

The Codes Enforcement Officer will determine whether or not an application is complete and if it is a permit under the jurisdiction of the Codes Enforcement Officer, he will make a determination on the application within ten (10) business days. If the application is for an approval or permit from the Planning Board or the Zoning Board of Appeals, eight (8) copies of the completed application will be required to be submitted at least two (2) weeks prior to the meeting at which the application will be considered by the appropriate Board. At that initial meeting, the Board will determine whether the Codes Enforcement Officer's determination as to completeness is accurate, and if found to be incomplete, the applicant will be advised what additional material may be required to complete the application.

1.12.6.5. Public Hearing

If a public hearing is required or if the Board in its discretion determines that a public hearing is appropriate, then it shall be scheduled within thirty (30) days of a determination by the Board that the application is complete.

1.12.6.6. General Permit Standards

In addition to any other standards or conditions applicable to an application for a permit or approval under the Land Use Codes and Building Codes of the Town of Union, each applicant shall demonstrate that he/she conforms to the following standards and the issuing Board or officer shall determine before any approval that these standards have been met:

1.12.6.6.1. Will maintain safe and healthful conditions.

1.12.6.6.2. Will not result in water pollution, erosion, or sedimentation to surface waters.

1.12.6.6.3. Will adequately provide for the disposal of all wastewater.

1.12.6.6.4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird, or other wildlife habitat.

1.12.6.6.5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters.

1.12.6.6.6. Will protect archaeological and historic resources as designated in the Comprehensive Plan.

1.12.6.6.7. Will avoid problems associated with flood plain development and use

1.12.6.6.8. Is in conformance with the provisions of 1.15, Land Use Standards and/or 4.3 of the Shoreland Zoning provisions.

1.12.6.7. Expiration

If no substantial start is made in construction or if the use of the property has not been established within one (1) year of the date of the issuance of the permit or approval, the permit or approval shall lapse and become null and void. In addition, the permit or approval shall expire within twenty-four (24) months after issuance if substantial completion of the project has not been achieved. Either of these time frames may be extended by the Board or Officer issuing the permit or approval for good cause shown.

1.12.6.8. Permanent Records

All applications for permits with accompanying submissions and plans and all minutes of meetings and all approvals, shall be maintained as a permanent record in the Codes Enforcement Office.

1.12.6.9. Revisions

If substantial changes are made in the size, use, structure, location, or other significant parameter involved in the issuance of a permit or approval, then a revised permit or approval, with new submissions evidencing the change, shall be required.

1.12.6.10. Conditions of Approval

The granting authority may issue permits or approvals with conditions which are designed to ensure compliance with all applicable Ordinance provisions and to mitigate the impact of the development upon surrounding property, neighborhoods, public infrastructure, or any other property or use that may be affected by the development.

1.12.6.11. Multiple Approvals

Where a plan of development requires multiple approvals, those approvals may be coordinated through the Codes Enforcement Office, and a consolidation of applications and submission requirements may be allowed and, where a Board approval is required, the applicable Board may consider application for multiple approvals simultaneously.

1.12.6.12. Fees

The determination of fees for submission of applications under the Town's Land Use Ordinance shall be determined on a yearly basis by the Board of Selectmen and may be adjusted from time to time as may be determined to be in the best interests of the Town. Should the Board of Selectmen fail to act on the fee schedule in any particular year, then the fee schedule for the prior year shall be carried forward and be in full force and effect.

1.12.7. Appeals

Appeals from decisions of the Codes Enforcement Officer and the Planning Board, except as they relate to code enforcement matters, shall be determined by the Zoning Board of Appeals in accordance with the provisions of 1.12.5.8 above. Appeals of the granting of approvals, denial of approvals, or granting of approvals with conditions, by the Zoning Board of Appeals or the Planning Board, shall be appealed directly to the Superior Court in accordance with the provisions and time frames contained in Rule 80B of the Maine Rules of Civil Procedure.

1.12.8. Enforcement

1.12.8.1. Codes Enforcement Officer Acts

The Codes Enforcement Officer shall be the primary municipal official responsible for the provisions of Land Use and Building Ordinances of the Town of Union. If the officer shall determine that any provision of any such Ordinances is being violated, he shall notify in writing the person responsible for the violation and the owner of the property if different. The written notice shall contain the nature of the violation and the action that must be taken to bring the property into compliance and any remediation action that must be taken. In order to achieve compliance, the Codes Enforcement Officer may order discontinuation of an illegal use of the property, discontinuation of any unpermitted or illegal work that is being done on the property, removal of any unpermitted or illegal buildings, structures, additions, alterations or structural changes, revoke an occupancy permit, or prohibit occupancy of any structure where in the CEO's judgment such occupancy would represent a danger or hazard to the occupant, order repair, renovations or demolition of a structure where the nature of the violation or danger to the occupant requires, or order such other remedial action as may be required under the circumstances. Copies of such notices shall be maintained as a permanent record in the Codes Enforcement Office and, when issued, a copy shall be submitted to the Board of Selectmen and the Town Manager.

1.12.8.2. Legal Action

Where the action of the Codes Enforcement Officer does not result in the correction, abatement or discontinuance of the violation, the Municipal Officers may authorize any and all additional actions or proceedings, including code violation actions under Rule 80K of the Maine Rules of Civil Procedure, and Section 4452 of Title 30-A, in order to enforce the provisions of Land Use and Building Ordinances of the Town of Union and any conditions of approval. In addition, the Municipal Officers or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of Ordinances and to recover applicable fines without Court action.

1.12.8.3. Penalties

Any firm, person, corporation, or other entity who is responsible for violation of any of the provisions of these Ordinances or any conditions of approval for permits or approvals issued under these Ordinances, or any owner of any property where a violation occurs, shall be penalized in accordance with the provisions of 30-A M.R.S.A. § 4522. Any fines or penalties resulting from proceedings under enforcement actions taken under the provisions of this Section, together with costs and expenses as allowed under 30-A M.R.S.A. § 4452(3)(d) shall be paid to the order of the Town of Union.

ARTICLE 2: SITE PLAN REVIEW PROVISIONS

2.1. PURPOSE

Substantial development or major changes in land use can have a major impact on the cost and efficiency of municipal services and on the environment of the Town. Such development can have impacts on schools, waste disposal, water supply, recreational facilities; solid waste disposal; fire protection; open space; road systems and circulation; traffic congestion; placement of buildings and structures; water quality; the visual characteristics of the neighborhood and Town; and the general health, safety, and welfare of the community. It is the purpose of these site plan review ordinance provisions to minimize the impacts caused by development, and to accomplish the following objectives with the least possible regulation;

2.1.1. To establish a fair and reasonable set of standards for evaluating each development proposal,

2.1.2. To provide local protection from those particular nuisances which are not governed by State law or regulations,

2.1.3. To suggest ways in which development proposals may be modified so that potential problems and nuisances would be minimized or prevented.

2.1.4. To balance the right of land owners to use their land for the purposes stated above, with the corresponding right of abutting and neighboring land owners to live without undue disturbance from noise, smoke, fumes, dust, odor, glare, traffic, storm water run-off and the degradation of ground or surface water resources,

2.1.5. To provide a public hearing process through which town residents may raise questions and receive answers about how new development proposals would affect them and,

2.1.6. To reduce the off-site problems created by development, thereby decreasing the cost of maintaining or improving municipal facilities.

2.2. AUTHORITY AND ADMINISTRATION

2.2.1. These site plan review ordinance provisions are adopted pursuant to the Home Rule Power of Article VIII, Part 2, of the Maine Constitution and 30-A M.R.S.A., Section 3001.

2.2.2. The Union Planning Board shall administer this Ordinance.

2.3. APPLICABILITY

These site plan review ordinance provisions shall apply to:

2.3.1. Proposals for new construction of non-residential buildings or structures and of multi-family dwellings of three or more units, including accessory buildings and structures, having a total area for all floors of more than 1,500 square feet.

2.3.2. Resumption of conforming and non-conforming uses which have been discontinued for at least one (1) year.

2.3.3. Existing uses (conforming and non-conforming) which seek to expand by 1,500 square feet within any five (5) year period, with regard to floor-space, parking area, seating capacity, or outdoor storage area, and the addition of weeks or months to a business's operating seasons which exceeds 20%.

2.3.4. Existing uses (conforming and non-conforming) which seek to expand by the addition of hours to a work day which does create a negative impact on the surrounding area.

2.3.5. Proposals to pave, strip, grade, fill or remove earth materials from areas of more than 10,000 square feet within a five (5) year period.

This section does not apply to single-family or two-family dwellings and/or accessory buildings, home occupations or agricultural and forest management practices.

2.4. REVIEW PROCEDURE

2.4.1. Informal Pre-application Procedure

2.4.1.1. All applicants seeking Site Plan Approval must ask to be placed on the Planning Board Agenda eight days before a regularly scheduled Planning Board meeting. At this preliminary meeting the applicant shall make a preliminary presentation to Planning Board, including a sketch plan of the proposed project.

2.4.1.2. Planning Board may offer suggestions toward the drafting of formal plans and review with the applicant the appropriate information required for the project.

2.4.1.3. The sketch plan should be drawn and the lot number and appropriate tax map should be indicated for reference.

2.4.2. Application Procedures

2.4.2.1. Within six (6) months of the pre-application meeting, the applicant shall submit the following materials to the Code Officer at least eight (8) days prior to a regular monthly meeting accompanied by an application fee.

2.4.2.1.1. Eight (8) copies of the Site Plan Review application. Application forms are available at the Town Office.

2.4.2.1.2. Eight (8) copies of a site plan showing the following information and drawn to a scale of not more than 100 feet to the inch and not less than 40 feet to the inch on standard 24 inch by 36 inch paper.

2.4.2.2. Information provided on this drawing should include:

2.4.2.2.1. Name and address of applicant and development,

2.4.2.2.2. Scale and true north or magnetic indicator,

2.4.2.2.3. Total land area of the site,

2.4.2.2.4. Location of development on the site,

2.4.2.2.5. Location of water courses, marshes or bedrock on the site,

2.4.2.2.6. Existing soil conditions as described by either a soil scientist, geologist, engineer, or Soil Conservation Service medium intensity soil survey,

2.4.2.2.7. Location of proposed public utilities, culverts, wells, and leach fields,

2.4.2.2.8. Location of fencing, screening or landscape work,

2.4.2.2.9. Contour lines may be required and specified by the Planning Board showing elevations in relation to national geographic vertical datum,

2.4.2.2.10. Municipal tax map, lot numbers, names and addresses of all landowners within 500 feet,

2.4.2.2.11. The Planning Board may also require an updated survey completed by a licensed Maine surveyor or engineer,

2.4.2.2.12. Exact dimensions and acreage of parcel.

2.4.2.2.13. Location of all buildings within 300 feet of the property boundaries,

2.4.2.2.14. Location of all other structures, wells, sewer systems, water-bodies, easements, drainage ways, public and private water ways and roads within 300 feet of the boundary lines.

2.4.2.2.15. The size, shape, and location of existing and proposed buildings on the parcel, as well as elevations of proposed buildings,

2.4.2.2.16. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, design of ingress and egress of vehicles to and from the site onto public streets, and curb and sidewalk lines,

2.4.2.2.17. A signature block on the site plan, including space to record a reference to the order by which the plan is approved,

2.4.2.3. The applicant shall attend a meeting of the Planning Board to discuss his application and all supporting data requested,

2.4.2.4. Upon determining that a complete application has been submitted for review and appropriate fees have been paid, the Planning Board shall issue a dated receipt of a completed application,

2.4.2.5. The Planning Board will hold a public hearing on all applications within 45 days of submitted application,

2.4.2.6. The Planning Board shall notify all landowners within 500 feet from applicants' property lines.

2.4.2.7. The Planning Board may require applicant to solicit written comments from the road commissioner, fire chief, school superintendent and utilities on the impact of the proposed development on the services they provide,

2.4.2.8. Before the Planning Board gives final approval the applicant must meet one of the performance guarantees contained in 2.5.13.

2.4.2.9. Forty-five (45) days after submission of a completed application (date receipt), the Board shall act to approve, approve with conditions, or disapprove the site plan application submitted or amended. The time limit for review may be extended by mutual agreement between the Planning Board and the applicant. In respect to all review criteria the burden of proof rests with the applicant.

2.5. REVIEW CRITERIA AND PERFORMANCE STANDARDS

Before granting approval of any Site Plan Review application, the Planning Board shall consider the following criteria and shall determine that the proposed activity is in accordance with the provisions of this Ordinance.

2.5.1. Air and Water Pollution

Will not result in undue water or air pollution either on or off the site. In making this determination, the Planning Board shall consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and sub-soils and their ability to adequately support waste disposal and the slope of the land and its effect on effluents. Adequate provision shall be made for surface drainage so that removal of surface waste will not adversely affect neighboring properties.

Has sufficient water available for reasonably foreseeable needs of the development including, but not limited to potable water and fire control water and will not alone or in conjunction with other activities adversely affect the quality or quantity of the ground water. Will not cause an unreasonable burden on existing water supplies including private ground water.

2.5.2. Dust, Fumes, Vapors and Gases

Emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property, or which could soil or stain persons or property, at any point, beyond the lot lines of the commercial or industrial establishment creating that emission shall be prohibited. All such activities shall also comply with applicable Federal and State regulations.

2.5.3. Odor

No land use or establishment shall be permitted to produce harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

2.5.4. Soil Erosion

Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result both on and off site. Until a disturbed area is stabilized, sediments in run-off water shall be trapped by the use of debris basins, sediment basin, silt traps, or other acceptable methods as determined by the Planning Board. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sand pits, rock quarries, etc.) shall not be permitted within one hundred (100) feet of any property line, except as provided for in the Zoning Ordinance provisions.

2.5.5. Vehicular Access, Parking and Circulation

The proposed site layout shall provide for safe access to and from public and private roads and shall meet the following standards.

2.5.5.1. Entrance ways shall be designed to provide the following minimum sight distance measured in each direction, from the point at which the entrance way meets the public or private right-of-way:

[FROM 1.10.9.6] Table of Sight Distance Minimums	
Posted Speed (MPH)	Sight Distance Minimum (Feet)
20	155
25	200
30	250
35	305
40	360
45	425
50	495
55	570

2.5.5.2. The roads serving the site shall be adequate to carry the anticipated traffic, and the site

plan shall locate points of access to avoid hazardous conflicts with existing turning movements and traffic flows,

2.5.5.3. Pedestrian ways shall be safely separated from vehicular traffic.

2.5.6. Solid Waste and Sewage Waste Disposal

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Board may require the applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

2.5.7. Historic Sites

Will not have an undue adverse effect on historic sites.

2.5.8. Comprehensive Plan and Ordinance

Is in conformance with Comprehensive Plan and all Ordinances and regulations of the Town of Union.

2.5.9. 100-Year Flood Elevation

All principal structures within the development, located within designated Flood Hazard Areas, shall be constructed with the lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation.

2.5.10. Relationship of Structure to the Environment

Proposed structures shall relate harmoniously to the land and existing buildings. Special attention shall be paid to the bulk, location and height of buildings. In historical areas the Planning Board shall require new construction to harmonize with surrounding properties to be designed so as not to be architecturally incompatible. Exposed storage areas, service areas, utility buildings and similar structures shall be screened. Such screening shall establish a buffer zone appropriate for the activity of commercial uses, exposed storage areas, and utility buildings the year round. Industrial uses shall have minimum 100-foot buffer zone.

2.5.11. Glare

No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond its lot lines onto neighboring properties, or onto any town way so as to impair the vision of the driver of any vehicle upon that town way. All such activities shall also comply with applicable Federal and State regulations.

2.5.12. Noise

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness, or volume (please refer to table below). The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any commercial or industrial activity regulated by this Ordinance shall be as established by the time period and type of land use listed below. Sound Pressure levels shall be measured on a sound level meter at all major lot lines of the proposed site, at a height of at least four (4) feet above the ground surface.

Sound Pressure Level Limit		
	7 a.m. - 8 p.m.	8 p.m. - 7 a.m.
Village Residential	50 dB(A)	45 dB(A)
Rural	55 dB(A)	45 dB(A)
Commercial	65 dB(A)	55 dB(A)
Industrial	70 dB(A)	60 dB(A)

The following uses and activities shall be exempt from the sound pressure level regulations: temporary noises created by construction, timbering or agriculture.

2.5.13. Performance Guarantees

The final plan shall be accompanied by a performance guarantee or, at the discretion of the Planning Board, a conditional agreement. The performance guarantee shall be for an amount adequate to cover the total construction costs of all required improvements for roads, utilities, sewage collection and other improvements for all infrastructure to be used publicly or privately maintained and used in common.

Type of Guarantees

2.5.13.1. A certified check payable to the Town of Union;

2.5.13.2. A savings account passbook issued in the name of the Town of Union;

2.5.13.3. An irrevocable letter of credit from a financial institution acceptable to the Planning Board;

2.5.13.4. A faithful performance bond running to the Town of Union and issued by a surety company licensed to do business in the State of Maine.

2.5.14. General Conditions

2.5.14.1. The Planning Board may modify or waive any of the above application requirements or performance standards when the Planning Board determines that, because of special circumstances of the site or size of the project such application requirements or standards would not be applicable or would be an unnecessary burden upon the applicant and not adversely affect the abutting landowners and the general health, safety and welfare of the Town.

2.5.14.2. Approval of the site plan and any building permit issued for development within the scope of this Ordinance shall expire after a period of twelve (12) months if construction has not been substantially commenced.

2.5.14.3. Conditions:

The Planning Board may, in order to carry out the purposes of this section, require additional conditions necessary to protect the public interest and to fit such uses harmoniously into their neighborhood. The Planning Board may impose such reasonable conditions on approvals granted under this Ordinance as it may deem necessary or appropriate to further the applicant's compliance with the review criteria or other provisions of this Ordinance. Such conditions may include, but are not limited to specifications for: increased setbacks and yards; specified water supplies for sewage disposal facilities; type of vegetation; landscaping and planting screens; periods and methods of operation; routing of traffic; professional operation, maintenance, and inspection of sanitary facilities; and performance guarantees. Such conditions imposed, and the reasons therefore, shall be written as part of this approval issued by the Planning Board which involves additional conditions.

2.6. VALIDITY. SEVERABILITY AND CONFLICTS WITH OTHER ORDINANCES

2.6.1. 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.

2.6.2. Whenever the requirements of this Ordinance differ from the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants the most restrictive or that imposing the higher standards shall govern.

2.7. APPEALS

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or any abutting landowner or any aggrieved party, or when it is claimed that the provisions of the Ordinance do not apply, or that the true intent and meaning of the Ordinance have been misconstrued or wrongfully interpreted, the applicant, and abutting landowner, or aggrieved party may appeal the decision of the Planning Board in writing to the Board of Appeals within thirty (30) days of the Planning Board's decision. The Board of Appeals may reverse the Planning Board's decision only upon the findings that there has been an error of law or that the facts leading to the decision or the interpretation of these facts, by the Planning Board were erroneous. The appeal shall be consistent with 1.12.7 Appeals. In making its review, the Board of Appeals shall conduct a public hearing in accordance with Title 30, M.R.S.A. Section 2411.

2.8. INCORPORATION OF THE UNION LAND USE

All provisions of the Union Land Use Ordinance, including, but not limited to, performance standards, definitions and enforcement provisions are hereby incorporated into these Site Plan Review provisions by reference.

ARTICLE 3: WIRELESS TELECOMMUNICATION FACILITY PROVISIONS

(Adopted November 6, 2007)

3.1. AUTHORITY

These ordinance provisions are adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4312 et seq.

3.2. PURPOSE AND INTENT

The purpose of these ordinance provisions are to provide a process and a set of standards for the construction of wireless telecommunications facilities and to establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities. Additional objectives of these provisions are as follows:

- Allow competition in telecommunications service;
- Permit and manage reasonable access to the public rights of way of the Town of Union for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within the Town of Union comply with the ordinances of the Town of Union;
- Ensure that the Town of Union can continue to fairly and responsibly protect the public health, safety and welfare;
- Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community;
- Further the goals and policies of the Comprehensive Plan, while promoting orderly development of the town with minimal impacts on existing uses;
- Protect the scenic and rural character of the community.

3.3. APPLICABILITY

These ordinance provisions apply to all construction, expansion and co-location of wireless telecommunications facilities, except the following:

3.3.1. Wireless telecommunication facilities for communication by public officials, including specifically emergency communications.

3.3.2. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

3.3.3. Parabolic antennas less than seven (7) feet in diameter.

3.3.4. Maintenance or repair of a wireless telecommunications facility and related equipment, provided that there is no change in the height, other dimension, or other external characteristic of the facility.

3.3.5. An antenna that is an accessory use to a residential dwelling unit.

3.3.6. A temporary wireless telecommunications facility, in operation for a maximum period of 180 consecutive days and as close as practical to the site of an approved permanent facility, while an approved permanent facility is under construction. (This applies to so-called cellular-on-wheels facilities (COW's).)

3.3.7. Short-term facilities for media or events for a maximum period of fourteen (14) consecutive days.

In addition to complying with these ordinance provisions, all wireless telecommunications facilities must comply with the Town of Union Land Use Ordinance, as from time to time amended, which also includes all provisions of the Site Plan Review Ordinance, as from time to time amended, that are dispositioned by the Planning Board in accordance with 3.4.2 of this ordinance. These provisions shall apply regardless of applicability limitations expressed in 2.3 of the Site Plan Review Ordinance.

3.4. REVIEW AND APPROVAL AUTHORITY

No person shall construct or expand a wireless telecommunications facility without approval of the Planning Board or the Code Enforcement Officer (CEO), as set forth below.

3.4.1. Expansion of an existing facility

3.4.1.1. Approval by the CEO is required for any expansion of a previously approved wireless telecommunications Facility:

3.4.1.1.1. that increases the height of the facility's building or structure by no more than 20 feet from the height approved by the Planning Board in the original site plan review, for facilities originally approved under this ordinance; or by no more than 20 feet from its original height for a facility that predates this ordinance;

3.4.1.1.2. for co-location of the equipment of an additional wireless telecommunications service provider in or on a previously approved facility.

3.4.1.2. For any expansion, the maximum height restriction imposed by 3.7.2 applies.

3.4.1.3. The CEO shall review applications for such wireless telecommunications facilities, and make written findings supporting the issuance or denial of approvals for such facilities. Those written findings shall state whether the proposed facility complies with this ordinance.

3.4.2. New construction

Approval of the Planning Board is required for construction of a new wireless telecommunications facility, and for any expansion of a previously approved wireless telecommunications facility that increases the height of the facility by more than 20 feet.

The Planning Board shall review applications for such wireless telecommunications facilities, and make written findings supporting the issuance or denial of approvals for such facilities.

Those written findings shall state whether the proposed facility complies with this ordinance.

3.5. APPROVAL PROCESS

3.5.1. Application

Applicants shall meet with the CEO no less than 30 days prior to filing an application to the Planning Board. The purpose of this meeting shall be for the CEO to explain the ordinance requirements as well as application forms and required submissions. The application procedure shall be in accordance with the Town of Union Land Use Ordinance. No tower owner or manager shall be permitted to submit an application if the tower owner or manager does not have a signed agreement committing a commercial service provider to occupy space on the tower.

3.5.2. Submission requirements for CEO approval

Applications for approval by the CEO shall include the following materials and information:

3.5.2.1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.

3.5.2.2. A copy of the FCC license for the facility.

3.5.2.3. Location map and elevation drawings of the proposed facility, including any proposed structures, showing color, and identifying structural materials.

3.5.2.4. For proposed expansion of a facility, a signed statement that commits the owner of the facility and successors in interest to:

3.5.2.4.1. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

3.5.2.4.2. negotiate in good faith for shared use by third parties;

3.5.2.4.3. allow shared use if a party proposing co-location agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility;

3.5.2.4.4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

3.5.2.5. A form of surety or other performance guaranty in an amount to pay for the costs of removing the applicant's facility if it is abandoned, which may include the following

performance guaranties:

3.5.2.5.1. a certified check payable to the Town of Union;

3.5.2.5.2. a savings account passbook issued in the name of the Town of Union;

3.5.2.5.3. an irrevocable letter of credit from a financial institution; or

3.5.2.5.4. a performance bond running to the Town of Union and issued by a surety company or insurance company licensed to do business in the State of Maine.

3.5.3. Submission requirements for Planning Board approval

Applications for approval by the Planning Board shall include the following materials and information:

3.5.3.1. Documentation of the applicant's right, title, and interest in the lot where the facility will be sited, including the name and address of the landowner and the applicant.

3.5.3.2. A copy of the FCC license for the facility, or a signed affidavit from the owner or operator of the facility attesting that the facility will comply with FCC regulations.

3.5.3.3. Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800) and that are within 1000 ft of the proposed site.

3.5.3.4. A USGS 7.5-minute topographic map showing the current location of all structures and wireless telecommunications facilities above 120 feet in height from ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility. This requirement shall be deemed to have been met if the applicant submits current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database, including latitude and longitude.

3.5.3.5. A site plan:

3.5.3.5.1. prepared and certified by a professional engineer registered in Maine indicating the location, type and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, and setbacks from property lines. The site plan must include certification by a professional engineer registered in Maine that the proposed facility complies with all American. National Standards Institute (ANSI) codes;

3.5.3.5.2. certification by the applicant that the proposed facility complies with all FCC standards for radio emissions; and

3.5.3.5.3. a boundary survey for the project performed by a land surveyor licensed by the State of Maine;

3.5.3.5.4. all other requirements specified in the Town of Union Site Plan Review Ordinance, unless expressly waived by the Planning Board in accordance with provisions of the ordinance.

3.5.3.6. Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level and facility configuration (shape, etc.).

3.5.3.7. A visual impact mitigation plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing; the color of the structure; additional concealment or other proposed visual impact mitigation measures; and the proposed lighting method.

3.5.3.8. A visual impact assessment by a qualified professional which shall include photo simulations (actual photos, with simulated images of the proposed facility inserted into the photos) of the proposed facility taken from perspectives determined by the Planning Board during the site plan review pre-application meeting pursuant to the Site Plan Review Ordinance. Each photo simulation must be labeled with the line of sight, elevation, and the date taken imprinted on the photograph. The photo must show the color of the facility and method of screening.

3.5.3.9. *A narrative discussing:*

3.5.3.9.1. the extent to which the proposed facility would be visible from or within a designated scenic resource;

3.5.3.9.2. the tree line elevation of vegetation within 100 feet of the facility; and

3.5.3.9.3. the distance to the proposed facility from the designated scenic resource's noted viewpoints.

3.5.3.10. A written description of how the proposed facility fits into the applicant's telecommunications network. (The purpose of this requirement is to support verification of the applicant's business and technical need for the facility.)

3.5.3.11. Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility for any of the following reasons:

3.5.3.11.1. no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements;

3.5.3.11.2. existing facilities do not have sufficient height and cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements;

3.5.3.11.3. existing facilities do not have sufficient structural strength to support

applicant's proposed antenna and related equipment; specifically that:

3.5.3.11.3.1. necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment;

3.5.3.11.3.2. the applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna;

3.5.3.11.3.3. existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively;

3.5.3.11.4. for facilities existing prior to the effective date of this Ordinance, evidence that the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable.

3.5.3.12. A signed statement stating that the owner of the wireless telecommunications facility and successors and assigns agree to:

3.5.3.12.1. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

3.5.3.12.2. negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

3.5.3.12.3. allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility;

3.5.3.12.4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

3.5.3.13. In addition, prior to the issuance of a permit, the applicant shall provide a form of surety or other performance guaranty approved by the Planning Board in an amount sufficient to pay for the costs of removing the facility if it is abandoned, which may take any of the following forms:

3.5.3.13.1. a certified check payable to the Town of Union;

3.5.3.13.2. a savings account passbook issued in the name of the Town of Union;

3.5.3.13.3. an irrevocable letter of credit from a financial institution acceptable to the Planning Board; or

3.5.3.13.4. a performance bond running to the Town of Union and issued by a surety company or insurance company licensed to do business in the State of Maine.

3.5.4. Submission waiver

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the submission is not required to determine compliance with the standards of this Ordinance.

3.5.5. Fees

3.5.5.1. CEO Application Fee

An application for CEO approval shall include payment of an application fee as set annually by the Board of Selectmen. The fee is intended to cover the cost of the Town's administrative processing of the application and related costs. The application shall not be considered complete until this fee is paid. The applicant is entitled to a refund of the application fee if the application is withdrawn, less all expenses incurred by the Town to review the application up to the time of withdrawal.

3.5.5.2. Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee as set annually by the Board of Selectmen. The application shall not be considered complete until this fee is paid. The fee is intended to cover the cost of the Town's administrative processing of the application, including notification, and related costs. This fee shall not be refundable.

3.5.5.3. Planning Board Review Escrow Account

3.5.5.3.1. The Planning Board may hire any consultant and/or expert necessary to assist the Town in reviewing, analyzing and evaluating the application, including the construction and modification of the site, once permitted, and any requests for recertification.

3.5.5.3.2. An applicant shall deposit with the Town, funds sufficient to reimburse the Town for all reasonable costs of a consultant and any expert evaluation and consultation to the Planning Board in connection with the review of any application, and the construction and modification of the site once permitted. The initial deposit shall be \$5,000.00, which deposit is not a fee. The placement of the \$5,000 with the Town shall precede the pre-application meeting. The Town will maintain a separate escrow account

for all such funds. Consultants shall invoice the Town for services in reviewing the application, including the construction and modification of the site, once permitted, and the Town shall use this escrow to pay the consultants.

3.5.5.3.3. If at any time during the process the escrow account has a balance less than \$2,500.00, the applicant shall immediately, upon notification by the Town, replenish said escrow account so that it has a balance of at least \$5,000.00. Such additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

3.5.5.3.4. The total amount of the funds needed as set forth in 3.5.5.3.2 may vary with the scope and complexity of the project, the completeness of the application, and other information as may be needed to complete the necessary review, analysis, and inspection of any construction or modification.

3.5.6. Public hearing

For applications requiring Planning Board approval under 3.4.2, a public hearing shall be held within thirty (30) days of the notice of a complete application.

3.5.7. Approval

3.5.7.1. CEO Approval

Within thirty (30) days of receiving a complete application for approval under 3.4.1, the CEO shall approve, approve with conditions, or deny the application in writing, and shall provide written findings on which the approval or denial is based. The time period may be extended upon agreement between the applicant and the CEO.

3.5.7.2. Planning Board Approval

Within ninety (90) days of receiving a complete application under 3.4.2, the Planning Board shall approve, approve with conditions, or deny the application in writing, and shall provide written findings on which the approval or denial is based.

3. 6. SITE RESTRICTIONS

3.6.1. A new wireless telecommunications facility is an allowed use only in the following areas, unless such facility is sited as set forth in 3.6.2 below:

3.6.1.1. the Rural District as defined in the Town of Union Land Use Ordinance provisions; and

3.6.1.2. at least 600 ft. from the edge of the roadway along Heald Highway, Depot St., South Union Rd., North Union Rd., Sennebec Rd., and Appleton Rd., unless the Planning Board makes a positive finding that, because of the local topography, a shorter setback from

the road would result in a less-pronounced visual impact.

3.6.2. In addition to the areas set forth above, a new wireless telecommunications facility is an allowed use in all other areas under the following circumstances:

3.6.2.1. co-location of equipment in or on a previously approved wireless telecommunications facility, subject to approval by the CEO as set forth in 3.4.1 above; or

3.6.2.2. location of an antenna in an existing structure, such as (for purposes of illustration) a church steeple, silo, or multi-story building, with no indication or display of equipment outside that existing structure.

3.7. STANDARDS OF REVIEW

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

3.7.1 CEO Approval Standards

An application for approval by the CEO under 3.4.1 must meet the following standards:

3.7.1.1. The proposed facility is an expansion that increases the height of the previously approved structure by no more than 20 feet, under the conditions specified in 3.4.1.

3.7.1.2. The applicant has sufficient right, title, or interest in the previously approved structure or the existing structure to make the application for approval from the CEO.

3.7.1.3. The proposed structure for the addition to the previously approved facility or structure shall be constructed of materials and colors that match or blend with the existing or previously approved structure.

3.7.1.4. The proposal set forth in the application meets the requirements set forth in 3.5.2 (4) and (5) of this Ordinance.

3.7.1.5. The CEO makes a positive finding that the configuration of the facility, with the exception of the height as specified in 3.7.1.1 above, will not be substantially different from the configuration approved in the original site plan review.

3.7.2 Planning Board Approval Standards

An application for approval by the Planning Board under 3.4.2 shall meet the following standards:

3.7.2.1. Preference for Co-location and Location of an Antenna in an Existing Structure

To the extent practical, as determined by the Planning Board, new wireless telecommunication facilities shall be located or configured in the following manner in each zoning district of the Town of Union where such use is allowed. The applicant shall demonstrate that the preferences below cannot reasonably accommodate the applicant's proposed facility before a new facility can be approved:

3.7.2.1.1. co-location of such a facility in connection with or as part of an existing wireless telecommunications facility; and

3.7.2.1.2. an antenna located in an existing structure such as (for purposes of illustration) a church steeple, silo or multi-story building, with minimal indication or display of equipment outside that existing structure.

3.7.2.2. Siting on Municipal Property

If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility, on municipal property, the applicant shall show the following:

3.7.2.2.1. the proposed location complies with applicable municipal policies and ordinances;

3.7.2.2.2. the proposed facility will not interfere with the intended purpose of the property;

3.7.2.2.3. the applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

3.7.2.3. Design for Co-location

A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least two additional wireless telecommunications facilities or providers. However, the Planning Board may waive or modify this standard where the height limit effectively prevents future co-location.

3.7.2.4. Height

The maximum height of a structure for a wireless telecommunications facility shall be no more than 190 feet, including the height of the antenna.

3.7.2.5. Setbacks

A structure or building for a new or expanded wireless telecommunications facility shall comply with the setback requirements for the zoning district in which it is located, or be set back one hundred five percent (105%) of its height from all property lines, whichever is greater. The setback may be satisfied by including areas outside the property boundaries if these areas are secured by easements acceptable to the Planning Board. An antenna is exempt from the setback requirement if it extends no more than five (5) feet horizontally from the edge of the structure to which it is attached and it does not encroach upon an abutting property.

3.7.2.6. Landscaping

A new wireless telecommunications facility and related equipment shall be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.

3.7.2.7. Fencing

A new wireless telecommunications facility shall be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers. Such fencing shall include a gate on the access road when deemed appropriate by the Planning Board.

3.7.2.8. Lighting

A new wireless telecommunications facility shall be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. However, security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site, to the maximum extent practicable.

3.7.2.9. Color and Materials

A new wireless telecommunications facility shall be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required by the Planning Board, muted colors, earth tones and subdued hues shall be used.

3.7.2.10. Structural Standards

A new wireless telecommunications facility must comply with the current Electronic Industries Association/Telecommunications Industries Association (EWTIA) 222 Revision Standard entitled "Structural Standards for Steel and Antenna Towers and Antenna Supporting Structures."

3.7.2.11. Visual impact

A new wireless telecommunications facility must be designed to mitigate visual impact to the greatest extent practical, considering the engineering requirements of the applicant and the availability of reasonable visual impact mitigation measures, including consideration of reasonable alternatives.

3.7.2.12. Visual impact on Designated Scenic Resources

The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the Town's Comprehensive Plan, as that Comprehensive Plan may be amended from time to time, or identified in 3.14 and incorporated by reference herein. In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, or resource, the Planning Board shall consider the following factors:

3.7.2.12.1. View Above Tree line

The extent to which the proposed wireless telecommunications facility is visible above the tree line, from the viewpoint(s) of the impacted designated scenic resource as viewed from the public road, public land or public waterway;

3.7.2.12.2. Extent of Background Features

The type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

3.7.2.12.3. General Visibility

The extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s) set forth in (3.7.2.12.1) above;

3.7.2.12.4. Vegetative Screening

The amount of vegetative screening;

3.7.2.12.5. Distance

The distance of the proposed facility from the viewpoint of the designated scenic resource and the facility's location within the designated scenic resource;

3.7.2.12.6. Overall Visual Impact

The evidence set forth in the visual impact assessment submitted with the application pursuant to 3.5.3.7 above, and any conclusions based upon that visual impact assessment;

3.7.2.12.7. Alternatives

The presence of reasonable alternatives, including proactive concealment measures and alternative siting, that allow the facility to function consistent with its purpose.

3.7.2.13. Access Roadways

All access roadways shall be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation, or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation. The design shall take all practical steps possible to prevent a visible scar up or across a ridgeline visible from public streets, roads, or water bodies.

3.7.2.14. Historic, Cultural, & Archaeological Properties

The proposed facility, to the greatest degree practicable, shall have no unreasonable adverse impact upon districts, sites, businesses, buildings, structures, or objects that are significant in local history, architecture, archaeology, engineering or culture.

3.7.3. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board. Where necessary to ensure that an approved project meets the intent of this ordinance, the Planning Board may impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan and shall include:

3.7.3.1. The owner of the wireless telecommunications facility and successors and assigns agree to:

3.7.3.1.1. respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

3.7.3.1.2. negotiate in good faith for shared use by third parties;

3.7.3.1.3. allow shared use if an applicant agrees in writing to pay reasonable charges for co-location, and such co-location will not jeopardize the existing facility;

3.7.3.1.4. require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adopting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

3.7.3.2. Upon request by the Planning Board, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

3.8. AMENDMENT TO AN APPROVED APPLICATION

Any changes to an approved application shall be reviewed and dispositioned by either the CEO or the Planning Board, as specified in 3.4, in full compliance with the regulations in this ordinance.

3.9. DAMAGE

In the event that a wireless telecommunications facility is substantially damaged by a storm or other Force Majeure, the owner shall restore the facility to its most recently approved configuration, or remove it, within 180 days.

3.10. ABANDONMENT

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing, certified mail return receipt requested, ordering the removal of the facility within ninety (90) days of the date of receipt of the notice. The owner of the facility shall have thirty (30) days from receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the owner fails to establish that the facility has not been abandoned, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality shall remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation.

If a surety has been given to the Town to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board, and all costs have been paid. Any balance of funds remaining after the land has been returned to the pre-construction condition shall be returned to the owner.

If a surety has been given to the Town and the costs of removal exceed the surety, the owner of the facility shall be responsible for payment of the additional costs to the Town, such payment to be made within 14 days of the request by the Town for payment.

3.11. APPEALS

Any person aggrieved by a decision of the CEO or the Planning Board under this Ordinance may appeal the decision to the Zoning Board of Appeals, as an administrative appeal under the Town of Union Land Use Ordinance. Written notice of the appeal shall be filed within 30 days of the date of a written decision by the Planning Board or CEO. The notice of appeal shall clearly state the reasons for the appeal. The review by the Board of Appeals of a Planning Board or CEO decision shall be based exclusively on the written record of the decision, and the Board of Appeals shall reverse the decision only if it makes a positive finding that the decision was clearly contrary to the requirements or standards of this ordinance. If the Appeals Board finds that the written record is insufficient to support adjudication of the appeal, it shall remand the decision to the decision-making body for clarification.

3.12. ENFORCEMENT

This ordinance shall be enforced pursuant to the provisions of the Town of Union Land Use Ordinance.

3.13. CONFLICT WITH OTHER ORDINANCES

Whenever a provision of this ordinance is found to be in conflict with or inconsistent with another provision of this ordinance or with any other ordinance, regulation, or statute, the more restrictive provision shall apply. The invalidation of any part of this ordinance shall not invalidate any other part of this ordinance.

3.14. DESIGNATED SCENIC RESOURCES

The following are established as Designated Scenic Resources. The resources are specified by an observation position on a public way, and by two angular directions defining a viewing angle. All angular directions are magnetic (compass) directions.

3.14.1. Millay Lane.

Viewpoint: Millay Lane, from Clarry Hill Rd. along a span of 200 ft. to Utility Pole No. 501-481.

Angular bounds: 0 to 60 deg. and 100 to 360 deg.

Description: Panoramic views across downward sloping terrain toward Seven Tree Pond to the southeast and toward rolling hills in the distance.

3.14.2. Seven Tree Pond from Depot St.

Viewpoint: Depot St., 600ft. north of the intersection with Western Rd.

Angular bounds: 20 to 120 deg.

Description: Views across blueberry fields to Seven Tree Pond.

3.14.3. North from Depot St.

Viewpoint: Depot St., from the intersection with Come Spring Lane south to Telephone Pole 57-46.

Angular bounds: 40 to 130 deg. and 300 to 360 deg.

Description: Views across farms and hayfields toward Seven Tree Pond and views of Barrett Hill, Ragged Mtn., Overlock Hill, and Coggins Hill.

3.14.4. Seven Tree Pond from Ayer Hill and the Common Cemetery.

Viewpoint: Along Cemetery Drive, from Ayer Hill to the rear boundary of the cemetery.

Angular bounds: 50 to 240 deg.

Description: Views of Seven Tree Pond, Spruce Mtn., Pleasant Mtn., Barrett Hill and part of Union Village area.

3.14.5. Seven Tree Pond from Ayer Park.

Viewpoint: Ayer Park boat ramp at the edge of the pond.

Angular bounds: 40 to 240 deg.

Description: Views across the pond toward rising terrain on the opposite shore.

3.14.6. Seven Tree Pond from South Union Rd.

Viewpoint: South Union Rd. at 487 South Union Rd.

Angular bounds: 250 to 280 deg.

Description: Across Seven Tree Pond to the hills in the background.

3.14.7. Clarry Hill

Viewpoint: Top of Clarry Hill (State has scenic easement).

Angular bounds: 0 to 360 deg.

Description: Spectacular views in all directions; a Town landmark.

3.14.8. Southeast from Pound Hill Rd.

Viewpoint: Pound Hill Rd., 300 ft. west of the intersection with Overlock Hill Rd.

Angular bounds: 150 to 180 deg.

Description: Overlooks fields and pastures toward Round Pond with Ayer Hill in the background, plus the eastern slope of Clarry Hill.

3.14.9. West from Upper Shepard Hill Rd.

Viewpoint: Shepard Hill Rd., 300ft. north of the crest of the hill

Angular bounds: 240 to 300 deg.

Description: West side of Clarry Hill and rolling hills beyond.

3.14.10. Coggins Hill Rd.

Viewpoint: North of Heald Highway, from 150 to 200ft. beyond the red barn at Whataview Farm

Angular bounds: 70 to 180 deg.

Description: Views across an apple orchard and pasture toward Hatchet Mtn., Megunticook Mtn., Bald Mtn., Ragged Mtn., and Pleasant Mtn., with Barrett Hill and Seven Tree Pond in the foreground.

3.14.11. East from Butler Rd.

Viewpoint: Butler Rd., 1.25 miles north of the intersection with Appleton Rd.

Angular bounds: 30 to 120 deg.

Description: Views across Sennebec Pond with Barrett Hill in the background.

3.14.12. Hills Looking East From Heald Highway.

Viewpoint: Heald Highway, 1000 ft. west of the intersection with Cole Rd.

Angular bounds: 45 to 145 deg.

Description: The Gateway to the Midcoast; the point where the rolling hills that characterize the Midcoast area first become visible to a traveler heading east on Rte. 17.

3.14.13. Lower Barrett Hill Rd.

Viewpoint: Barrett Hill Rd., 0.7 miles north of Heald Highway at Utility Pole No. 23-34.

Angular bounds: 230 to 350 deg.

Description: Across the western slope of Barrett Hill.

ARTICLE 4: SHORELAND ZONING PROVISIONS

(Adopted June 15, 2009)

4.1. PURPOSES

The purposes of these shoreland ordinance provisions are to further the maintenance of safe and healthful conditions; 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 freshwater 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 waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.

4.2. AUTHORITY

These shoreland ordinance provisions have been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

4.3. APPLICABILITY

These shoreland ordinance provisions apply to all land areas within 250 feet, horizontal distance, of the

- normal high-water line of any great pond or river, or
- upland edge of a freshwater wetland,

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

These shoreland ordinance provisions also apply to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4.4. EFFECTIVE DATE

4.4.1. Effective Date of Ordinance and Ordinance Amendments

These shoreland ordinance provisions, which were adopted by the municipal legislative body on June 15, 2009, 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 Municipal 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 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.

4.4.2. Repeal of Municipal Timber Harvesting Regulation

The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A (5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the

shoreland zone. On the date established under 38 M.R.S.A section 438-A (5), the following provisions of this Ordinance are repealed:

- 4.14. Table 4-14: Land Uses in the Shoreland Zone, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
- 4.15.15. Timber Harvesting in its entirety; and
- 11. Definitions, the definitions of “forest management activities” and “residual basal area”.

4.5. AVAILABILITY

A certified copy of these ordinance provisions 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 reasonable cost at the expense of the person making the request. Notice of availability of these ordinance provisions shall be posted.

4.6. SEVERABILITY

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

4.7. CONFLICTS WITH OTHER ORDINANCES

Whenever a provision of these ordinance provisions conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.

4.8. AMENDMENTS

These ordinance provisions may be amended by majority vote of the legislative body. Copies of amendments, 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.

4.9. DISTRICTS AND ZONING MAP

4.9.1. Official Shoreland Zoning Map Description

The areas to which these ordinance provisions are applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

- 4.9.1.1. Resource Protection*
- 4.9.1.2. Limited Residential*
- 4.9.1.3. Limited Commercial*
- 4.9.1.4. Stream Protection*

4.9.2. Scale of Map

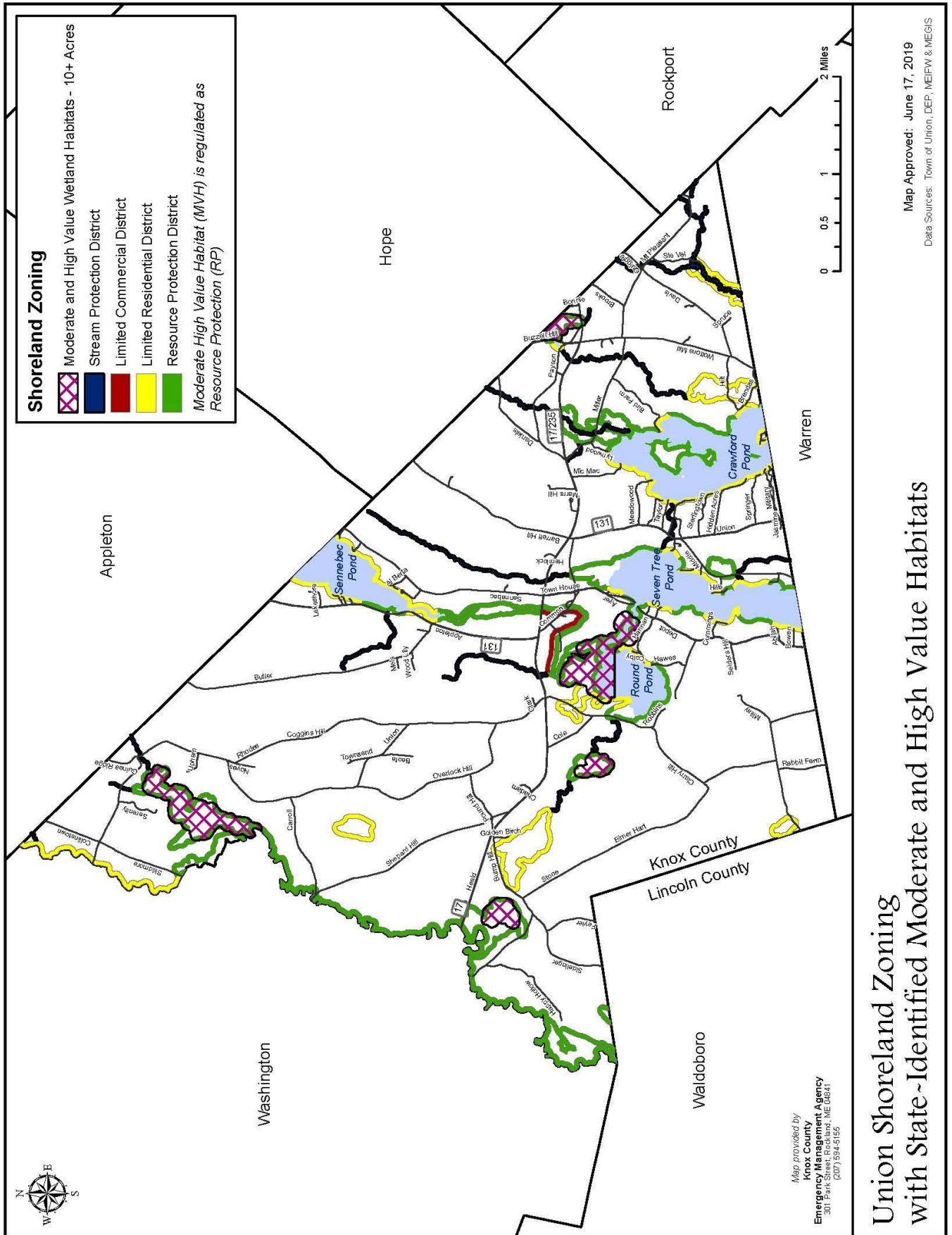
The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.

4.9.3. Certification of Official Shoreland Zoning Map

The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.

4.9.4. Changes to the Official Shoreland Zoning Map

If amendments, in accordance with 4.8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.



4.10. INTERPRETATION OF DISTRICT BOUNDARIES

Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

4.11. 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.

4.12. NON-CONFORMANCE

4.12.1. 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 4.12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

4.12.2. General

4.12.2.1. *Transfer of Ownership*

Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.

4.12.2.2. *Repair and Maintenance*

This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

4.12.3. Non-conforming Structures

Expansions. A non-conforming structure may be added to or expanded 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 and is in accordance with subparagraphs 4.12.3.1. and 4.12.3.1.2. below.

4.12.3.1. *Special expansion allowance*

Existing principal and accessory structures that exceed the floor area or height limits set in 4.12.3. Above, may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

4.12.3.1.1. The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland.

4.12.3.1.2. A well-distributed stand of trees and other natural vegetation as defined in 4.15.15.2.2, extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property. If a well-distributed stand of trees and other vegetation meeting the requirements of 4.15.15.2.2 is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or its designee, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet, horizontal distance, of the shoreline or tributary stream.

4.12.3.1.3. Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of storm water.

4.12.3.1.4. A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.

4.12.3.1.4.1. Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.

4.12.3.1.4.2. Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.

4.12.3.2. Planting requirements

Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the ration scores contained in 4.12.3.1.2 and the ground cover requirements of 4.12.3.1.3 when the vegetation matures within the 50 foot strip. At a minimum, the plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless

otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

4.12.3.3. Filing and reporting requirements

Written plans required pursuant to 4.12.3.1.4 must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality in the department within 14 days of the issuance of the permit.

4.12.3.4. 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 or its designee, 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 (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 or its designee 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:

4.12.3.4.1. 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.

4.12.3.4.2. 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.

4.12.3.5. Reconstruction or Replacement

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the 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 (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee 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 4.12.3 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 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 remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with 4.12.3.1.3 above.

Any non-conforming structure which is located less than the required setback from a water body, 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 setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in 4.12.3.4 Relocation above, the physical condition and type of foundation present, if any.

4.12.3.6. 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 water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

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, floodplain management, archaeological and historic resources, and functionally water-dependent uses.

4.12.4. Non-conforming Uses

4.12.4.1. 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 structures or within expansions of such structures as allowed in 4.12.3.1 above.

4.12.4.2. Resumption Prohibited

A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.

4.12.4.3. 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 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 4.12.3.6 above.

4.12.5. Non-conforming Lots

4.12.5.1. Non-conforming Lots:

A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

4.12.5.2. 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.

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.

4.12.5.3. Contiguous Lots - Vacant or Partially Built:

If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

4.12.5.3.1. Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

4.12.5.3.2. Any lots that do not meet the frontage and lot size requirements of

4.12.5.3.1. Are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

4.13. ESTABLISHMENT OF DISTRICTS

4.13.1. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial need not be included within the Resource Protection District.

4.13.1.1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, and wetlands associated with great ponds and rivers, 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 as of May 1, 2006. For the purposes of this paragraph “wetlands associated with great ponds and rivers” shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. “Wetlands associated with great ponds or rivers” are considered to be part of that great pond or river.

4.13.1.2. Floodplains along rivers and floodplains along artificially formed great ponds along rivers, 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.

4.13.1.3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.

4.13.1.4. Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland as defined, and which are not surficially connected to a water body during the period of normal high water.

4.13.1.5. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

4.13.1.5.1. Other important wildlife habitat;

4.13.1.5.2. Natural sites of significant scenic or esthetic value;

4.13.1.5.3. Areas designated by federal, state or municipal governments as natural areas of significance to be protected from development; and

4.13.1.5.4. Other significant areas which should be included in this district to fulfill the purposes of this Ordinance, such as, but not limited to, existing public access areas and certain significant archaeological and historic sites deserving of long-term protection as determined by the municipality after consultation with the Maine Historic Preservation Commission.

4.13.2. Limited Residential District

The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District, and areas which are used less intensively than those in the Limited Commercial District.

4.13.3. Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

4.13.3. Stream Protection District

The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater wetland. Where a stream and its associated shoreland area are located within two-

hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

4.14. TABLE OF LAND USES:

All land use activities, as indicated in Table 4-14, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in 4.15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 4-14:

Yes Allowed (no permit required but the use must comply with all applicable land use standards.)

No Prohibited

PB Allowed with permit issued by the Planning Board.

CEO Allowed with permit issued by the Code Enforcement Officer

LPI Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP Resource Protection

LC Limited Commercial

LR Limited Residential

SP Stream Protection

TABLE 4-14. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT			
	SP	RP	LR	LC
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	YES	YES	YES	YES
2. Motorized vehicular traffic on existing roads and trails	YES	YES	YES	YES
3. Forest management activities except for timber harvesting	YES	YES	YES	YES
4. Timber harvesting	YES	CEO	YES	YES
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	YES	YES
6. Fire prevention activities	YES	YES	YES	YES
7. Wildlife management practices	YES	YES	YES	YES
8. Soil and water conservation practices	YES	YES	YES	YES
9. Mineral exploration	NO	YES ²	YES	YES ²
10. Mineral extraction including sand and gravel extraction	NO	PB ³	PB	PB
11. Surveying and resource analysis	YES	YES	YES	YES
12. Emergency operations	YES	YES	YES	YES
13. Agriculture	YES	PB	YES	YES
14. Aquaculture	PB	PB	PB	YES
15. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁴	PB ⁹	CEO	CEO
B. Multi-unit residential	NO	NO	PB	PB

LAND USES	DISTRICT			
	SP	RP	LR	LC
C. Commercial	NO	NO ¹⁰	NO ¹⁰	PB
D. Industrial	NO	NO	NO	NO
E. Governmental and institutional	NO	NO	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	CEO	CEO
16. Structures accessory to allowed uses	PB ⁴	PB	CEO	CEO
17. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	YES
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
21. Essential services	PB ⁶	PB ⁶	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	YES ¹²	YES ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB
22. Service drops, as defined, to allowed uses	YES	YES	YES	YES
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO
25. Campgrounds	NO	NO ⁷	PB	PB
26. Road construction	PB	NO ⁸	PB	PB
27. Parking facilities	NO	NO ⁷	PB	PB
28. Marinas	PB	NO	PB	PB
29. Filling and earth moving of <10 cubic yards	CEO	CEO	YES	YES
30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO
31. Signs	YES	YES	YES	YES
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

Table Footnotes:

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

Note: No ⁵ footnote.

⁶See further restrictions in 4.15.12 Essential Services.

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in 4.15.8 Roads and Driveways.

⁹Single family residential structures may be allowed by special exception only according to the provisions of 4.16.5, Special Exceptions. Two-family residential structures are prohibited.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required but must file a written “notice of intent to construct” with CEO.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate “piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland”.

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

4.15. LAND USE STANDARDS

All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

4.15.1. Minimum Lot Standards

4.15.1.1. Table of Minimum Lot Area and Minimum Shore Frontage

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
Residential per dwelling unit	60,000	200
Governmental, Institutional, Commercial or Industrial per principal structure	60,000	200
Public and Private Recreational Facilities	40,000	200

4.15.1.2. Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.

4.15.1.3. 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.

4.15.1.4. The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.

4.15.1.5. If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

4.15.2. Principal and Accessory Structures

4.15.2.1. All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

4.15.2.1.1. The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.

4.15.2.1.2. On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area or eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located close to the shoreline or tributary stream than the principal structure.

4.15.2.2. Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not

apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.

4.15.2.3. The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot 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 identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

4.15.2.4. The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed,

4.15.2.5. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

4.15.2.5.1. The site has been previously altered and an effective vegetated buffer does not exist;

4.15.2.5.2. The wall(s) is (are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;

4.15.2.5.3. The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;

4.15.2.5.4. The total height of the wall(s), in the aggregate, are no more than 24 inches;

4.15.2.5.5. Retaining walls are located outside of the 100-year floodplain on rivers, streams, and tributary streams, 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 flood plain soils.

4.15.2.5.6. The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and

4.15.2.5.7. A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:

4.15.2.5.7.1. The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;

4.15.2.5.7.2. Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

4.15.2.5.7.3. Only native species may be used to establish the buffer area;

4.15.2.5.7.4. A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;

4.15.2.5.7.5. A footpath not to exceed the standards in 4.15.16.2.1, may traverse the buffer;

4.15.2.6. 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 water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

4.15.3. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Below the Normal High-Water Line of a Water Body or Within a Wetland

4.15.3.1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

4.15.3.2. The location shall not interfere with existing developed or natural beach areas.

4.15.3.3. The facility shall be located so as to minimize adverse effects on fisheries.

4.15.3.4. 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 shall not be wider than six feet for non-commercial uses.

4.15.3.5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

4.15.3.6. New permanent piers and docks shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.

4.15.3.7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

4.15.3.8. Except in the General Development Districts, structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

4.15.4. Campgrounds

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

4.15.4.1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.

4.15.4.2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

4.15.5. Individual Private Campsite

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

4.15.5.1. 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, whichever is less, may be permitted.

4.15.5.2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

4.15.5.3. 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 vehicle.

4.15.5.4. 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 (1,000) square feet.

4.15.5.5. 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.

4.15.5.6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per 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.

4.15.6. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- 4.15.6.1. Auto washing facilities
- 4.15.6.2. Auto or other vehicle service and/or repair operations, including body shops
- 4.15.6.3. Chemical and bacteriological laboratories
- 4.15.6.4. Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- 4.15.6.5. Commercial painting, wood preserving, and furniture stripping
- 4.15.6.6. Dry cleaning establishments
- 4.15.6.7. Electronic circuit assembly
- 4.15.6.8. Laundromats, unless connected to a sanitary sewer
- 4.15.6.9. Metal plating, finishing, or polishing
- 4.15.6.10. Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- 4.15.6.11. Photographic processing
- 4.15.6.12. Printing

4.15.7. Parking Areas

4.15.7.1. Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for

parking areas serving public boat launching facilities in Districts other than the General Development I District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.

4.15.7.2. Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.

4.15.7.3. In determining the appropriate size of proposed parking facilities, the following shall apply:

4.15.7.3.1. Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.

4.15.7.3.2. Internal travel aisles: Approximately twenty (20) feet wide.

4.15.8. Roads and Driveways

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

4.15.8.1. Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, 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 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 water body, 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 water body, 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 five (5) percent increase in slope above twenty (20) percent.

Note: 4.15.8.1 does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational 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 4.15.8.1 except for that portion of the road or driveway necessary for direct access to the structure.

4.15.8.2. Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

4.15.8.3. New permanent roads are not allowed within the shoreland zone along Significant River Segments except:

4.15.8.3.1. To provide access to structures or facilities within the zone; or

4.15.8.3.2. When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

4.15.8.4. 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 in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road 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 water body, tributary stream, or upland edge of a wetland.

4.15.8.5. 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 4.15.17.

4.15.8.6. Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

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 water body, 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.

4.15.8.7. 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 ditch. To accomplish this, the following shall apply:

4.15.8.7.1. 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:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135

6-10	100-80
11-15	80-60
16-20	60-45
21 +	40

4.15.8.7.2. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

4.15.8.7.3. On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.

4.15.8.7.4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning and their inlet and outlet ends shall be stabilized with appropriate materials.

4.15.8.8. 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.

4.15.9. Signs

The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

4.15.9.1. Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.

4.15.9.2. Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.

4.15.9.3. Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.

4.15.9.4. Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.

4.15.9.5. Signs relating to public safety shall be allowed without restriction.

4.15.9.6. No sign shall extend higher than twenty (20) feet above the ground.

4.15.9.7. Signs may be illuminated only by shielded, non-flashing lights.

4.15.10. Storm Water Runoff

4.15.10.1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

4.15.10.2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

4.15.11. Septic Waste Disposal

4.15.11.1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following:

4.15.11.1.1. 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, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and

4.15.11.1.2. Holding tank is not allowed for a first-time residential use in the shoreland zone.

4.15.12. Essential Services

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

4.15.12.2. The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream 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.

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

4.15.13. 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 one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes, shall be immediately capped, filled or secured by other equally effective measures as to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

4.15.13.1. 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 4.15.13.4 below.

4.15.13.2. No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, 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.

4.15.13.3. 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:

4.15.13.3.1. 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.

4.15.13.3.2. The final graded slope shall be two and one-half to one (2½:1) slope or flatter.

4.15.13.3.3. 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.

4.15.13.4. 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.

4.15.14. Agriculture

4.15.14.1. All spreading of manure shall be accomplished in conformance with the *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).

4.15.14.2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this Ordinance.

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.

4.15.14.3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.

4.15.14.4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

4.15.14.5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies; 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.

4.15.15. Timber Harvesting

4.15.15.1. In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

4.15.15.1.1. Within the strip of land extending 75 feet, horizontal distance, and inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

4.15.15.1.1.1. The ground is frozen;

4.15.15.1.1.2. There is no resultant soil disturbance;

4.15.15.1.1.3. The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;

4.15.15.1.1.4. There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and

4.15.15.1.1.5. A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

4.15.15.1.2. Beyond the 75 foot strip referred to in 4.15.15.1.1 above, timber harvesting is permitted in accordance with 4.15.15.2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 ½ feet above ground level be reduced to less than 30 square feet per acre.

4.15.15.2. Except in areas as described in 4.15.15.1 above, timber harvesting shall conform with the following provisions:

4.15.15.2.1. 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 ½ feet above ground level on any lot in any ten (10) year period is permitted. In addition:

4.15.15.2.1.1. Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other 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.

4.15.15.2.1.2. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other 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.

4.15.15.2.2. Timber harvesting operations exceeding the 40% limitation in 4.15.15.2.1 above, 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.

4.15.15.2.3. No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or 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 water body or tributary stream shall be removed.

4.15.15.2.4. Timber harvesting equipment shall not use stream channels as travel routes except when:

4.15.15.2.4.1. Surface waters are frozen; and

4.15.15.2.4.2. The activity will not result in any ground disturbance.

4.15.15.2.5. 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.

4.15.15.2.6. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

4.15.15.2.7. 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 a water body or 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 this paragraph apply only to a face sloping toward the water body or 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 a water body or upland edge of a wetland.

4.15.16. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

4.15.16.1. In a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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.

4.15.16.2. Except in areas as described in 4.15.16.1., above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:

4.15.16.2.1. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy (or other existing woody vegetation of a forested canopy is not present) 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.

4.15.16.2.2. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of 4.15.16.2.2, a “well-distributed stand of trees adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by fifty (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

Adjacent to other water bodies, tributary streams, and wetlands, a “well-distributed stand of trees is defined as maintaining a minimum rating score of 16 per (25) - foot by 50-foot rectangular area.

The following shall govern in applying this point system:

4.15.16.2.2.1. The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;

4.15.16.2.2.2. Each successive plot must be adjacent to, but not overlap a previous plot;

4.15.16.2.2.3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

4.15.16.2.2.4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;

4.15.16.2.2.5. 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 4.15.16.2.2 “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 ½ feet above ground level may be removed in any ten (10) year period.

4.15.16.2.3. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, forest shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in 4.15.16.2.and 4.15.16.2.1. above.

4.15.16.2.4. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

4.15.16.2.5. 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.

Note: 4.15.16.2 does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

4.15.16.3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, 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 ½) 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.

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 General Development Districts.

4.15.16.4. Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

4.15.16.5. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions in 4.15.16.

4.15.17. Erosion and Sedimentation Control

4.15.17.1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also 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:

4.15.17.1.1. Mulching and revegetation of disturbed soil.

4.15.17.1.2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

4.15.17.1.3. Permanent stabilization structures such as retaining walls or rip-rap.

4.15.17.2. 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.

4.15.17.3. 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.

4.15.17.4. 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:

4.15.17.4.1. 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.

4.15.17.4.2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

4.15.17.4.3. 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.

4.15.17.5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways 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.

4.15.18. 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, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or 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, and 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.

4.15.19. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.

4.15.20. Archaeological Site

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.

4.16. ADMINISTRATION

4.16.1. Administering Bodies and Agents

4.16.1.1. Code Enforcement Officer

A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

4.16.1.2. Board of Appeals

A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.

4.16.1.3. Planning Board

A Planning Board shall be created in accordance with the provisions of State law.

4.16.2. 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 renew 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.

4.16.2.1. A permit is not required for the replacement of an existing road culvert as long as:

4.16.2.1.1. The replacement culvert is not more than 25% longer than the culvert being replaced;

4.16.2.1.2. The replacement culvert is not longer than 75 feet; and

4.16.2.1.3. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

4.16.2.2. A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved lists, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

4.16.2.3. Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

4.16.3. Permit Application

4.16.3.1. 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 4.14.

4.16.3.2. All applications shall be signed by an owner or individual who can show evidence 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.

4.16.3.3. 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.

4.16.3.4. 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 or use would require the installation of a subsurface sewage disposal system.

4.16.4. Procedure for Administering Permits

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in 4.14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. 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. After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- 4.16.4.1. Will maintain safe and healthful conditions;
- 4.16.4.2. Will not result in water pollution, erosion, or sedimentation to surface waters;
- 4.16.4.3. Will adequately provide for the disposal of all wastewater;
- 4.16.4.4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- 4.16.4.5. Will conserve shore cover and visual, as well as actual, points of access to inland waters;
- 4.16.4.6. Will protect archaeological and historic resources as designated in the comprehensive plan;
- 4.16.4.7. Will avoid problems associated with floodplain development and use; and
- 4.16.4.8. Is in conformance with the provisions of 4.15, Land Use Standards.

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 statute administered by the municipality.

4.16.5. Special Exceptions

In addition to the criteria specified in 4.16.4 above, accepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- 4.16.5.1. There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- 4.16.5.2. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- 4.16.5.3. All proposed buildings, sewage disposal systems and other improvements are:

- 4.16.5.3.1. Located on natural ground slopes of less than 20%; and

4.16.5.3.2. Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal Flood-plain ordinance. If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be ½ the width of the 100-year flood-plain.

4.16.5.4. The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.

4.16.5.5. All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

4.16.6. Expiration of Permit

Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

4.16.7. Installation of Public Utility Service

A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the Shoreland Zone 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 or other written arrangements have been made between the municipal officials and the utility.

4.16.8. Appeals

4.16.8.1. Powers and Duties of the Board of Appeals

The Board of Appeals shall have the following powers:

4.16.8.1.1. Administrative Appeals

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

4.16.8.1.2. Planning Board Appeals

To hear and decide appeals from any final decision of the Planning Board, within thirty (30) days of the date of the decision, by any aggrieved party. The appeal shall be on the basis of the record compiled by the Planning Board and additional submissions provided by the appellant and other aggrieved parties and the decision shall be made on the basis of this record and material and shall not be a hearing de novo. The burden of proof shall be on the appellant to demonstrate that the Planning Board has made an error of law, of application of the particular Ordinance, or of fact or interpretation of fact. The hearing on the appeal shall be considered a public hearing and subject to the notice requirements of 1.12.6.5. The Zoning Board of Appeals shall have the power to affirm, reverse, or modified, with or without conditions, the decision of the Planning Board or, if the record is not sufficient or further information needs to be provided, to remand the matter back to the Planning Board for further proceedings.

4.16.8.1.3. Variance Appeals

To authorize variances upon appeal, within the limitations set forth in this Ordinance.

4.16.8.2. Variance Appeals

Variances may be granted only under the following conditions:

4.16.8.2.1. Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

4.16.8.2.2. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

4.16.8.2.3. The Board shall not grant a variance unless it finds that:

4.16.8.2.3.1. The proposed structure or use would meet the provisions of 4.15 except for the specific provision which has created the non-conformity and from which relief is sought; and

4.16.8.2.3.2. The strict application of the terms of this Ordinance would result in undue hardship. The term “undue hardship” shall mean:

4.16.8.2.3.2.1. That the land in question cannot yield a reasonable return unless a variance is granted;

4.16.8.2.3.2.2. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

4.16.8.2.3.2.3. That the granting of a variance will not alter the essential character of the locality; and

4.16.8.2.3.2.4. That the hardship is not the result of action taken by the applicant or a prior owner.

4.16.8.2.4. Notwithstanding 4.16.8.2.3.2 above, The Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term “structures necessary for access to or egress from the dwelling” shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

4.16.8.2.5. The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure 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.

4.16.8.2.6. A copy of each variance request, 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.

4.16.8.2.7. A copy of all variances granted within the Shoreland Zoning district by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

4.16.8.3. Conditions of Approval

The ZBA is empowered to impose conditions on the property owner if it finds that such conditions are necessary to protect abutting property owners or the community as a whole from adverse impacts resulting from the granting of a variance.

4.16.8.4. Appeal Procedure

4.16.8.4.1. Making an Appeal

4.16.8.4.1.1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or

the Planning Board, except for enforcement-related matters as described in 4.16.8.1.1 above. Such an appeal shall be taken within thirty (30) days of the date of the official written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

4.16.8.4.1.2. Applications for appeals shall be made filing with the Board of Appeals a written notice of appeal which includes:

4.16.8.4.1.2.1. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

4.16.8.4.1.2.2. 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.

4.16.8.4.1.3. 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.

4.16.8.4.1.4. The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

4.16.8.4.2. Decision by Board of Appeals

A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal. The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing and shall issue a written decision on all appeals.

The Board of Appeals shall state the reasons and basis for its decision, including 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 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.

4.16.8.5. Appeal to Superior Court

Except as provided by 30-A M.R.S.A. section 2691(3)(F), Any aggrieved party who participated 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.

4.16.8.6. 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 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.

4.16.9. Enforcement

4.16.9.1. Nuisances

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

4.16.9.2. Code Enforcement Officer

4.16.9.2.1. 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 or she 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 or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.

4.16.9.2.2. The Code Enforcement Officer shall conduct on-site inspections to insure 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.

4.16.9.2.3. The Code Enforcement Officer shall keep a complete record of all essential 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.

4.16.9.3. Legal Actions

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of 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.

4.16.9.4. 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 shall be penalized in accordance with 30-A, M.R.S.A. Section 4452.

4.17. DESCRIPTIONS FOR THE OFFICIAL ZONING MAP

Sennebec Pond

Beginning on the eastern shore at the Appleton Town line heading south from the northern corner of Map 9 Lot 43-2 south to the southern corner of Map 9 Lot 34-1 Limited Residential.

From the southern corner of Map 12, Lot 34, north on the western shore to the northern corner of Map 12, Lot 34 (including Map 12, Lot 34-1), Resource Protection. The eastern borders of Map 12, Lots 33-1 and 33-2 are Resource Protection.

From the southerly corner of Map 31 Lot 34 north to the Appleton town line, Limited Residential.

St. George River

All flood plains associated with the St. George River are Resource Protection

Beginning on the eastern bank of the river, Map 9 Lot 32-2 south to the Hills Mills Dam. Limited Residential.

From the Hills Mills Dam south to Route 17, Resource Protection.

From Route 17 south along easterly side of river to the inlet into Round Pond, Resource Protection.

Beginning again on the western bank of the river at the outlet of Sennebec Pond at Map 9 Lot 66, south to the Hills Mills Dam, Limited Residential.

From Hills Mills Dam south to Route 17, Resource Protection.

From Route 17 on the western bank, Limited Commercial.

Past the bridge at Sunk Haze and around the point to a location on Map 26, Lot 2, 725' south of the road bridge to the Fairgrounds at the wetlands area, Limited Commercial.

From this location to the road bridge, Resource Protection.

From the bridge to the westerly corner of Map 8, Lot 40, Limited Commercial.

From the westerly corner of Map 8, Lot 40, to the entrance of the St. George River into Round Pond, Resource Protection.

Round Pond

From the bridge at Route 235 at the inlet of the St. George River into Seven Tree Pond, Map 21, Lot 12, west up river around point to south to the northern corner of Map 8, Lot 59, Resource Protection, including island off said lot.

From northern corner Map 8, Lot 59, south to southern corner of Map 8, Lot 65, Limited Residential.

From northern corner of Map 8, Lot 66, south around pond to Cole's Brook (Muddy Brook), Resource Protection.

From east side of Cole's Brook (Muddy Brook) easterly approximately 600 feet to the end of the marsh, Resource Protection.

From there around the point to the inlet of the stream on Map 8, Lot 12, Limited Residential.

From intersection of said brook easterly to the entrance of the St. George River into the pond, Resource Protection.

From the entrance of the river to the pond easterly to the outlet of the river from the pond, Resource Protection.

From there down the river to the bridge at Route 235, Resource Protection, along Map 8, Lot 56.

Seven Tree Pond

On the southern west side of the pond on the Warren line, Map 4, Lot 25-2, to the southern corner of Map 30, Lot 37, Limited Residential.

From the Southerly Corner of Map 30, Lot 37, to a point 250 feet beyond the Southerly corner of Map 30, Lot 36-1, Resource Protection. From that point of Map 30, Lot 36-1 to a point 350 feet south of the North line of Map 5 Lot 4, Limited Residential.

From that point on, 210 feet north of the south line of Map 5, Lot 9, Resource Protection; from that point to the south line of Map 5, Lot 11, Limited Residential.

From the southern corner of Map 21, Lot 10, to the northern corner of Map 21, Lot 6, Limited Residential.

From the southeast corner of Map 21, Lot 5 (6-1), to the bridge at Route 235, Resource Protection.

Beginning at said bridge north to the northern corner of Map 21, Lot 1-B (1-2), Resource Protection.

From the southern corner of Map 21, Lot 1, north to northern corner of Map 22, Lot 7, Limited Residential.

From the southern corner of Map 22, Lot 6, north and eastward around pond to Crawford Stream inlet, Resource Protection.

From the Crawford Stream outlet south to the Northerly corner of Map 19, Lot 13, Limited Residential.

From the Northerly property line of Map 19, Lot 13, as it exists on April 1, 1999, Southerly to subdivision line of Lots 2&3, of the Grover Subdivision, Resource Protection.

From the eastern corner of Map 19, Lot 9-3, around point south to southern corner of Map 30, Lot 6, Limited Residential.

From the northern corner of Map 30 Lot 5-6, south to the northern corner of Map 30, Lot 4, Resource Protection.

From the northern corner of Map 30, Lot 4, south to southern corner of Map 30, Lot 2, Limited Residential.

From the northern corner of Map 30, Lot 1, south to the Warren town line, Resource Protection.

Seven Tree Island is entirely Resource Protection.

Crawford Pond

Beginning at the Warren town line, Map 28, Lot 7, heading north on the west shore to a location 500 feet north of southern corner of Map 29, Lot 5, Limited Residential.

Beginning at said location around cove to a point 225 feet east of the western corner of Map 29, Lot 6, Resource Protection.

From said location to a location which is 600 feet into Map 6, Lot 5, Limited Residential.

Beginning from said location east and then south around end of pond to the northern corner of Map 29, Lot 15, Resource Protection.

Beginning at northern corner of Map 29, Lot 15, around point and through cove to the southern corner of Map 29, Lot 18, Limited Residential.

From the southern corner of Map 29, Lot 18, south along the eastern shore around point to the southern corner of Map 3, Lot 4, Resource Protection.

From the northern corner of Map 3, Lot 3-5 to a point 150 feet to the westerly of a granite post on the Union/Warren line, Limited Residential. From that point to the Town line, Resource Protection.

From the Warren town line in the cove at Map 28, Lot 1, around point to the intersection again with the Warren town line at Map 28, Lot 5-11, Limited Residential.

All islands, including Spruce Island and One Hundred Acre Island, Resource Protection.

Crawford River

Beginning at a location 250 feet from Crawford Pond on both sides of the river all the way to the inlet at the east bank of Seven Tree Pond for the length of the river, Stream Protection District.

Lermond Pond

The entire shoreline of Lermond Pond within the confines of Union is Resource Protection except Map 18, Lot 19 is Limited Residential. The mill pond associated with Lermond Pond beginning at the bridge at Route 235 (Buzzell Hill Rd.) around to Old Route 17 and back to Route 235, Limited Residential.

Medomak River

All flood plains associated with the Medomak River are Resource Protection.

Beginning at the Appleton line south to the intersection of Skidmore Road with the Medomak River, Limited Residential.

From there south to the Waldoboro town line, Resource Protection.

STREAM PROTECTION DISTRICT

Any Section of the following streams running through a state-designated wetland is in the Limited Residential District.

Pettingill Stream

From the Appleton town line south to the Medomak River on both sides of the stream, Resource Protection.

Quiggle Brook

Beginning at the Rockport town line heading in a southerly direction to the junction of a stream just west of the CMP transmission line on Map 1, Lot 5, Stream Protection.

From there to the edge of state-designated wetland #193, Stream Protection.

Through the wetland to the Warren town line, Stream Protection.

Beginning at the Hope town line at a point north of Quiggle Road running southerly to Quiggle Road and continuing to state designated wetland #193, Stream Protection.

Mill Stream

Beginning at Payson Road at the outlet of the Mill Pond, Stream Protection to Crawford Pond.

Millers Brook

Beginning at the Hope town line running to the inlet at Crawford Pond, Stream Protection.

Cole's Brook (Muddy Brook)

Beginning at Mud Pond all the way to Round Pond, Stream Protection.

Seven Tree Brook

The Appleton Town line at Map 9 lot 41 to Seven Tree Pond, Stream Protection.

Bowker Brook

From the St. George River upstream to the confluence of two streams on Map 9, Lot 15 Stream Protection.

4.18. SIGNIFICANT RIVER SEGMENTS IDENTIFIED (TITLE 38 M.R.S.A. §437.)

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
3. **East Machias River.** The East Machias River from ¼ of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R. 3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;
7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;
11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and

12. West Branch of Union River. The West Branch of the Union River from the Route 9 Bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.

ARTICLE 5: RESERVED FOR FUTURE USE

ARTICLE 6: RESERVED FOR FUTURE USE

ARTICLE 7: RESERVED FOR FUTURE USE

ARTICLE 8: RESERVED FOR FUTURE USE

ARTICLE 9: RESERVED FOR FUTURE USE

ARTICLE 10: RESERVED FOR FUTURE USE

ARTICLE 11: DEFINITIONS

Except as defined below, all words and terms used in this Ordinance shall have their customary dictionary meanings. Words used in the present tense shall include the future. Words used in the singular shall include the plural and vice versa. The word "shall" is used to indicate the mandatory and the word "may" is used to indicate the permissive.

ABUTTING PROPERTY: Any lot that is physically contiguous with the lot in question, even if only at a point, and any lot which is located directly across a public street, road, or way from the lot in question.

ACCESS: A public or private roadway used to enter or leave a public highway from adjacent land using an on-road motor vehicle. An access may be a driveway or an entrance depending upon the type of land use and volume of traffic generated by that use. A public or private point of entry or exit (driveway or entrance) from land adjacent to a public road used by motor vehicles as defined in Title 29-A M.R.S.A., Chapter 1, Section 101.

ACCESS POINT: The intersection of an existing or proposed access (driveway or entrance) with the public right-of-way.

ACCESS WIDTH: The distance across the access (driveway or entrance), excluding radii, measured parallel to the highway.

ACCESSORY APARTMENT (IN-LAW APARTMENT): A second dwelling unit within or attached to an existing single-family residence. The accessory apartment shall be substantially smaller in floor area than the existing dwelling unit, and its use shall be clearly incidental to the primary use of the property as a single-family residence.

ACCESSORY BUILDING or STRUCTURE or USE: A structure or use clearly incidental and subordinate to the principal building or use and located on the same lot with such principal building or use. An accessory building or structure is a structure detached from the principal building and containing the accessory use. A dwelling unit shall not be considered an accessory use.

ACCESSORY STRUCTURE OR USE (in shoreland zone) - 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 or FARMING ACTIVITIES: Land clearing, tilling, fertilizing, including spreading and disposal of animal manure and manure sludge, liming, planting, pesticide application, harvesting of cultivated crops, pasturing of livestock dairy and other similar or related activities, but not the construction, creation or maintenance of land management roads.

AGRICULTURE (in shoreland zone) - 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.

AGRICULTURAL HEAVY EQUIPMENT: Tractors and other agricultural vehicles with a gross vehicle weight exceeding 1,000 pounds, tractor attachments and similar accessories including trailers, and large motorized farm equipment such as hay conveyors and commercial milking equipment; but not lawn tractors, fencing, and other relatively light-weight and non-motorized farming accessories.

AIRFIELD or AIRPORT: an area used or intended to be used for the landing and take-off of aircraft, including general aviation, private, non-commercial service, and commercial service, in accordance with FAA regulations, and may include onsite fueling services.

ALTERATION (of a structure): Any change or modification in the layout or structure of a building, including, by way of example, changes in walls, staircases, dormers, or roofs of a building.

ALTERATION (of an access): A significant physical change to an access existing on or after the effective date of these access management standards, including significant changes to location, width, cross section, grade, or drainage characteristics of the access. Paving a gravel access will not be considered an "alteration" unless accompanied by other such changes.

ALTERNATE CEO: A person appointed by the Municipal Officers to act, when specifically authorized by the Town Manager or, in the Manager's absence, by the Chair of the Board of Selectmen, in the temporary absence of the CEO.

AMUSEMENT CENTER: Any private or commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public containing an aggregate of four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games whether activated by coins, tokens, or discs or whether activated through remote control by the management.

ANTENNA: Any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

ANTENNA HEIGHT: The vertical distance measured from the average original grade of the ground adjoining the foundation or base of the structure to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna,

base pad, and other appurtenances and shall be measured from the average original grade of the facility site.

APARTMENT: A dwelling unit that is not owner-occupied, other than an accessory apartment, that is located in a two-family or multifamily dwelling or in a building that is partially nonresidential in use.

APARTMENT BUILDING: A building in which are located apartments.

AQUACULTURE - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

ART GALLERY: A building providing space for the display and sale of graphic art, paintings, sculpture, textiles, and photographs to the public.

ASSISTED LIVING FACILITY (ELDERLY HOUSING FACILITY): A type of multifamily dwelling, including multiple individual rooms or dwelling units, to be occupied by persons who require assisted living services. Assisted living services means the provision by a single entity of housing and of assistance with activities of daily living and instrumental activities of daily living. Assisted living services may include personal supervision, protection from environmental hazards, diet care, supervision and assistance in the administration of medications, diversional or motivational activities, assistance in activities of daily living or physical exercise and nursing services. Assisted living services must be provided by the provider of housing either directly by that provider or indirectly through contracts with persons, entities or agencies.

AUTOMOBILE/VEHICLE BODY SHOP (AUTOMOBILE REPAIR SERVICES): Any premises where motor vehicle repair activities such as motor vehicle painting and body and fender work is conducted.

AUTOMOBILE FUELING SERVICES: Any premises where the primary use is the retail supply, installation and/or dispensing of gasoline and/or other motor fuels, lubricants, batteries, tires, and motor vehicle accessories.

AUTOMOBILE REPAIR: Any premises where motor vehicle maintenance, repair or servicing activities such as engine tune-ups, lubrication, carburetor cleaning and activities such as engine and mechanical overhauls are conducted. Motor vehicle repair shall not include activities such as motor vehicle painting and body or fender work.

AUTOMOBILE GRAVEYARD: A place where three or more unregistered, unserviceable, discarded, worn-out, or junked automotive vehicles are gathered together. Ref 30-A M.R.S.A. Sections 3751- 3760.

BACK LOT: a lot created by dividing a conforming lot so that the frontmost parcel (meeting the road frontage requirement in the district where it is located) remains conforming, and the rearmost parcel is conforming in all respects except for the absence of frontage on the pre-existing road.

BANK (of river, stream, pond or lake): The normal high water level of a water body.

BANKS and FINANCIAL INSTITUTION: A service listed under U.S. Standard Industrial Classification Codes 60 through 67 inclusive and including accounting and bookkeeping, banking, bank processing functions, other credit agencies, security and commodity brokers and service, insurance, real estate and investment services.

BASAL AREA - the area of cross-section of a tree stem at 4 ½ feet above ground level and inclusive of bark.

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 ESTABLISHMENT: An owner-occupied residential structure in which sleeping rooms are made available for a fee to overnight travelers and which may provide guests with a morning meal. Such establishments do not provide guests with independent living quarters and eating facilities as are normally associated with a hotel or motel. If located in a Residential District, they must in addition comply with all conditions of a home occupation.

BOARDING HOUSE: A house in which boarders are provided, under contract, rooms and meals for a certain period of time, usually by the week or month.

BOARDING CARE FACILITY: A facility licensed by the State of Maine to provide residence for persons who have physical infirmities such that they are in need of custodial care but not to such a degree as to require nursing home facilities.

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.

BOAT STORAGE FACILITY: A facility, whether open or enclosed, providing one or more of the following services to the public: Boat/ship repair, boat/ship construction, boat/ship storage.

BOTTLE CLUB: An establishment where no alcoholic beverages are sold but where members, guests, or customers provide their own alcoholic beverages, paying a fee or other consideration for admission or membership to the bottle club and/or for "set-ups".

BUILDING: Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattel. Each portion of a building separated from other portions by a firewall shall be considered as a separate building.

BUREAU (in shoreland zoning) – State of Maine Department of Conservation's Bureau of Forestry.

BUSINESS SERVICES and PROCESSING SERVICES: A service listed under U.S. Standard

Industrial Classification Code 73, including by way of example: advertising, credit reporting and collection, mailing and reproduction services, services to buildings, personnel supply services, computer and data processing services, management, public relations, and similar services to businesses, and the business offices of corporations or firms.

CAMPGROUND: A parcel of land used for overnight accommodations for limited duration, excluding the erection of permanent sleeping structures.

CAMPGROUND (in shoreland zone) - 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.

CAMPSITE – An area or tract of land providing temporary living quarters, including, but limited to, tents, recreational vehicles, or other shelters for private, not commercial, use.

CANOPY – the more or less continuous cover formed by tree crowns in a wooded area.
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.

CEMETERY: Land or lots used, or intended to be used, for the burial of the dead and dedicated to cemetery purposes, including columbariums, crematories, mausoleums and mortuaries when operated in conjunction with and within the boundaries of such cemetery.

CHANGE IN USE: A change in activity occurring on the property accessed by the driveway that will result in the conversion of a building(s) or parcel of land from a single-family or two-family dwelling to a three or more-family dwelling use, from a residential use to nonresidential use, or from one type of nonresidential use to any other type of nonresidential use or residential use.

CHURCHES (RELIGIOUS ORGANIZATIONS): A building or structure, or group of buildings or structures, designed and primarily intended and used for the conduct of religious services and accessory services associated therewith, but excluding schools.

CLEAR CUT: The harvesting of a stand of trees within a forested area of five (5) or more acres such that more than 60% of the crown closure has been removed.

CLUSTER SUBDIVISION: see SUBDIVISION, CLUSTER HOUSING

CLINIC, MEDICAL: An establishment primarily engaged in the provision of personal health services on an outpatient basis including: prevention, diagnosis, treatment, and rehabilitation services provided by physicians, dentists, nurses, and other health personnel, as well as the provision of medical testing and analysis-services, but excluding a sole source pharmacy.

CODE ENFORCEMENT OFFICER: The official responsible for enforcement of this Ordinance and for other duties set forth by State statutes and other ordinances.

CO-LOCATION: The use of a wireless telecommunications facility by more than one wireless telecommunications provider.

COMMERCIAL USE: Any activity carried on for pecuniary gain.

COMMERCIAL COMPLEX: Any concentration of retail stores or service establishments occupying a single premises which are designed, operated, or utilized as a single development. This term also includes a single department store or a single grocery store.

COMMERCIAL OUTDOOR RECREATION FACILITY: Outdoor recreation activities that are operated by an entity other than a unit of government and which are available for use for a fee, including, but not limited to: standard golf courses, ice skating rinks, tennis courts, cross-country ski trails, and alpine ski trails, but excluding games and activities common to amusement parks.

COMMERCIAL STRUCTURE: A structure primarily used for the buying and selling of goods, natural or manufactured.

COMMON OPEN SPACE: Land within or related to a subdivision, not individually owned or within an individual lot, 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.

COMMUNITY (CIVIC) BUILDING: A private building used by a fraternal, philanthropic, or other civic organization and which may be made available from time to time for community functions.

CONDOMINIUM: Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to State statutes. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration. Title 33 M.R.S.A., Section 1601, as amended.

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.

CORNER CLEARANCE: The minimum distance, measured parallel to a highway, between the nearest curb, pavement or shoulder line of an intersecting public way and the nearest edge of an access point excluding its radii.

CORNER LOT: Lot located at the intersection of two streets with frontage on each street. Corner lots shall conform with the front yard setback on each street and the side yard setback between any structures and the adjoining property on each street. A corner lot has no back or rear setback requirement.

CRAFTSMAN'S OFFICES, SHOPS, AND SHOWROOMS: The facilities of a person in a skilled craft involving artistic or related content, and providing any combination of products for sale based on the craft, teaching of the craft, or opportunities to observe the practice of the craft. Such shops, offices and showrooms might include artistic painting, sculpting, artistic forge work, jewelry making, and similar artistic activities.

CROSS ACCESS: A service drive providing vehicular access between two or more contiguous sites so the driver need not enter the public street system.

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.

CURB CUT: The opening along the curb line or street right-of-way line at which point vehicles may enter or leave the street.

DAY CARE CENTER: A house or place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

1. **DAY CARE CENTER:** A Day Care Facility as defined in State statutes for 13 or more children on a regular basis; and
2. **DAY CARE HOME:** A Day Care Facility as defined in State statutes for 3 to 12 children on a regular basis.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

DESIGNATED SCENIC RESOURCE: That specific location, view or corridor, which is identified as a scenic resource in the Town's Comprehensive Plan, as that Comprehensive Plan may be amended from time to time, or as set forth in 3.14 and incorporated by reference herein; such scenic resource shall consist of:

1. a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a hill or lake, or a group of objects, resulting in a panoramic view corridor; or
2. lateral terrain features such as valley sides or woodland as observed to either side of

the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

Expansion of a wireless telecommunication facility: The addition of towers, increased height and/or increased footprint of any buildings or structures of the existing facility.

DEVELOPMENT – 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.

DISRUPTION OF THE 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.

DRIVEWAY: An access serving one of the following land uses: residential uses up to two dwelling units, home occupations, forest management activities, farming, low volume and low impact industrial uses such as utility substations, or other similar uses. An access serving fifty or fewer vehicle trips per day on average as determined by the latest edition of the Institute of Traffic Engineers Trip Generation Manual.

DRIVEWAY (in shoreland zone) - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

DWELLING: A building used as the living quarters for one or more families containing a minimum of three hundred (300) square feet of floor area, exclusive of garages and similar unheated storage spaces, and equipped with a heating system and plumbing. The term includes manufactured housing as defined by 30-A M.R.S.A., Section 4358.

DWELLING, ATTACHED: A single-family dwelling which has two or more fire separation walls, or one fire separation wall in the case of a dwelling unit at the end of a group of attached dwellings, which has no dwelling unit above or below it, and which has no common hallway with any other dwelling unit.

DWELLING, TWO-FAMILY (DUPLEX): A building used for residential occupancy by two families living independently of each other.

DWELLING, MULTI-FAMILY: A building, or portion thereof, used for residential occupancy by three or more families living independently of each other.

DWELLING, SINGLE-FAMILY: A room or group of rooms within a dwelling designed and equipped as living quarters for a person or for a family, including provisions for living, sleeping, cooking, bathing, and sanitation.

ELDERLY HOUSING (ASSISTED LIVING, CONGREGATE HOUSING): A type of multi-family dwelling, including multiple individual rooms or dwelling units to be occupied by elderly persons as a residential shared living environment. Such construction will normally include small individual apartments, combined with shared community space, shared dining facilities, housekeeping services, personal care and assistance, transportation assistance and specialized shared services such as medical support services and physical therapy.

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.

ENLARGEMENT OR EXPANSION OF STRUCTURE: An increase of the building footprint and/or increase in the height of the structure beyond its present highest point. Alterations of existing buildings which are required in order to meet the requirements of the Americans with Disabilities Act (ADA) and/or the State Fire Code are not considered to be enlargements or expansions of a structure and are not required to meet otherwise applicable setback requirements, provided the alterations are the minimum necessary to satisfy the ADA and/or State Fire Code.

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

ENTRANCE: An access serving one of the following land uses: residential uses or developments serving three or more dwelling units, retail, office, or service business uses including department stores, strip malls, convenience stores, gas stations, auto repair shops, restaurants, or similar uses. An access serving more than fifty vehicle trips per day on average as determined by the latest edition of the Institute of Traffic Engineers Trip Generation Manual.

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.

EXPANSION OF A STRUCTURE (in shoreland zone) - 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 (in shoreland zone)- the addition of one or more months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

EROSION: A soil loss of five (5) tons per acre or more.

FAMILY: One or more persons occupying a dwelling unit and living as a single housekeeping unit as distinguished from a group occupying a boarding home, rooming house, or hotel.

FAMILY (in shoreland zone) - one or more persons occupying a premises and living as a single housekeeping unit.

FARM: A parcel of land used for agricultural purposes, including the sale of agricultural produce.

FAA: Federal Aviation Administration or its lawful successor.

FCC: Federal Communications Commission, or its lawful successor.

FLAG LOT: A lot created by dividing a conforming lot to create a rear parcel similar to a back lot but including a narrow segment connecting the bulk of the rear parcel to the roadway without meeting the road frontage requirement in the District where it is located.

FLEA MARKETS: An outdoor market selling antiques, used household goods, curios, and the like on a seasonal or permanent basis, limited to 12 sales a year, in which each sales event lasts no more than three days.

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.

FLOOR AREA - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

FOREST MANAGEMENT ACTIVITIES - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

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.

FORESTED WETLAND - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

FOUNDATION - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, 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 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, ROAD: The linear distance between the sidelines of a lot, measured along the lot line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of this Ordinance, the following ways shall constitute legal access to a lot along which frontage may be measured:

- a. A way accepted by or established as belonging to the Town of Union, Knox County, or the State of Maine, provided access is not specifically prohibited;
- b. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan;
- c. A private or public way which has not been approved by a governmental subdivision but which has been established in a deed recorded in a Registry of Deeds or otherwise legally established by adverse possession or adverse use, or which may provide access to a lot after abandonment or discontinuance.

In the case of a lot situated on a curve of a way or on a corner of two ways, the measurement of frontage may include the entire length of the property line along such way or ways.

FRONTAGE ROAD: A public or private drive that generally parallels a public street between the right-of-way and the front building setback line. The frontage road provides access to private properties while separating them from the public street.

FRONTAGE, SHORE: The straight line distance between the points of intersection of the side lot lines with the shoreline at normal high water elevation.

FUNCTIONALLY WATER-DEPENDENT USES (in shoreland zone) - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or

location in, coastal or inland waters and that can not 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 aids, basins and channels, retaining walls, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters.

FUNERAL HOME: A building or structure used for arranging and managing funerals, for the preparation of the deceased for display, burial or cremation and may contain space and facilities for embalming and the performance of other services used in the preparation of the dead.

GRADE: In relation to buildings, the average of the finished ground level of each wall of a building.

GREAT POND - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

GREAT POND CLASSIFIED GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

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 the under harvested areas greater than 10 acres within the area affected by the harvest.

HEADER: A piece of curbing between two terminal ends.

HEIGHT OF BUILDING: Vertical measurement from a point on the ground at the mean finished grade adjoining the foundation as calculated by averaging the highest and lowest points around the building or structure to the highest point of the building or structure, excluding incidental protrusions.

HEIGHT OF STRUCTURES FOR A WIRELESS TELECOMMUNICATION FACILITY: The vertical measurement from a point on the ground at the average original grade adjoining the foundation.

HEIGHT OF A STRUCTURE (in shoreland zone) - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

HELIPAD: an area used or intended to be used for the landing and take-off of helicopters for private, emergency or non-commercial service only.

HISTORIC OR ARCHEOLOGICAL RESOURCES:

1. Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
2. 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;
3. Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by the Secretary of the Interior through the Maine Historic Preservation Commission; or
5. Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

HISTORIC DISTRICT: Lots identified as historic and so identified on the Historic Areas Overlay Map in the Code Enforcement Office.

HISTORIC LANDMARK: Any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social economic or political history, or which exemplifies historic personages or important events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

HOME OCCUPATION: A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structure accessory thereto, which use is accessory, incidental, and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of the building and property. There may be 2 onsite employees from outside of the immediate family-in-residence. Clients may come to the home for face-to-face interaction, however, only incidental sales shall be allowed. One sign not exceeding two square feet shall be allowed.

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

HOSPITAL: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

HOTEL: See MOTEL.

IMPERVIOUS SURFACE: The area covered by buildings and associated constructed facilities, areas which have been or will be covered by a low-permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas, which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam, or other surfaces which similarly impede the natural infiltration of storm water. The footprint of buildings, pavement, gravel, or other low permeability or compacted surfaces.

INCREASE IN NONCONFORMITY OF A STRUCTURE (in shoreland zone) - 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 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.

INDUSTRIAL (in shoreland zone) - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

INDUSTRIAL STRUCTURE: A structure primarily used for the manufacturing, processing, and/or storage of goods.

INDUSTRIAL USES, LIGHT: Industrial activity involving the manufacturing, packaging, assembly or distribution of finished products from previously prepared material, including, by way of example only, the following: bakeries, bottling, printing and publishing, pharmaceutical, machine shops, precision instruments, watchmakers, musical instruments, toys and sporting

goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops and the packaging of foods. For the purpose of this Ordinance, light industrial uses shall include research and development facilities, warehousing and distribution facilities. Light industrial uses do not include the processing of raw materials or salvaging operations.

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.

JUNKYARD: A yard, field, or other area used to store:

- a. discarded, worn-out or junked plumbing supplies, heating supplies, household appliances or furniture,
- b. discarded scrap or junked lumber,
- c. old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel, or other ferrous materials, and,
- d. garbage dumps, waste dumps and sanitary fills.

The term is further defined in 30-A M.R.S.A., Sections 3751-3760.

KENNEL: Any place, building, tract of land, abode, enclosure, or vehicle where three or more dogs or three or more cats are kept for any purpose 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 BUSINESSES: business engaged in lawn care, landscaping, planting and grounds keeping services. Outdoor storage areas of landscaping materials and equipment shall be allowed only if vegetative buffers, screening, fencing, or some combination of these, is used where the storage area abuts a residential lot. Parking for all vehicles associated with the business must be provided onsite.

LICENSED FORESTER – a forester licensed under 32 MRSA Chapter 76.

LINE OF SIGHT: The direct view of the object from the designated scenic resource.

LOT: A parcel of land in single ownership occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open space as is required by the Ordinance and having frontage upon an approved street or private right-of-way. Land within the street or road right-of-way shall not be considered as part of a lot for the purpose of meeting the area requirements of this Ordinance, even though the owner may have title to such land.

LOT AREA (in shoreland zone) - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

LOT(S) OF RECORD: A lot or lots for which the deed was legally recorded on or before the effective date of this Ordinance or which was created by a plan legally recorded in the County Registry of Deeds on or before the adoption of this Ordinance.

LOT OR GROUND COVERAGE: The percentage of lot area covered or occupied by principal and accessory structures.

MAJOR TRAFFIC GENERATOR: A land use or combination of uses on a site that will generate a high traffic volume to and from the site. For purposes of these access management standards, high traffic volume shall mean at least 400 vehicle trips per day, such as generated by a school, shopping center or office park, and shall be calculated using the latest edition of Trip Generation, published by the Institute of Transportation Engineers.

MANUFACTURED HOUSING, MOBILE HOME: 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. Manufactured housing shall be subject to the statutory definition contained in Title 30-A M.R.S.A Section 4358. State law defines two types of manufactured housing:

- a. Those units manufactured 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 are 14 feet in width and 750 sq ft. or more which are built on a permanent chassis and designed to be used as dwellings with or without permanent foundations. These units shall be certified by the manufacturer that they have met the National Manufactured Housing Construction and Safety Standards established in 42 U.S.C.A., Section 5401 and seq.
- b. Those units commonly called 'modular homes' which the manufacturer certifies are constructed in compliance with Title 10 M.R.S.A., Sections 9001 et seq. and regulations, 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.

MANUFACTURING, LIGHT: Industrial activity involved with the manufacturing of finished products from previously prepared material, including, by way of example only, machinery, precision instruments, watches, musical instruments, toys, sporting goods, electrical or electronic components and tools and dies. Light manufacturing does not include the processing of raw materials or salvaging operations.

MARINA - 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.

METALLIC MINERALS: Any mineral containing any metal, including, but not limited to, minerals containing gold, silver, iron, manganese, copper, lead, zinc, tin, chromium, cobalt, nickel, molybdenum, platinum group elements, aluminum, antimony, and/or bismuth as their valuable constituent(s). Metallic minerals do not include common rock-forming minerals, such as quartz, feldspar, pyroxenes, amphiboles, zeolites, clays, or micas, irrespective of their content of metallic elements. For the purpose of this Ordinance, metallic minerals do not include thorium or uranium.

MINERALS: All naturally occurring mineral deposits, including hydrocarbons and peat, but excluding sand, gravel, and water.

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 EXPLORATION (in shoreland zone)- 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 operation within any twelve month period which removes more than 100 cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location, including processing, washing and storage, and to transport the product removed, away from the extraction site.

MINERAL EXTRACTION (in shoreland zone)- any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

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.

MINING or MINING ACTIVITY: The breaking of the surface soil in order to facilitate or accomplish the extraction or removal of more than 1,000 cubic yards of product or overburden from the earth within twelve (12) successive calendar months, any activity or process that is for the extraction or removal of the product or overburden, processes used in the separation or extraction of the mineral or minerals from other material from the mine or other natural deposit, including, but not limited to, crushing, grinding, beneficiation by concentration (gravity, flotation, amalgamation, electrostatic, or magnetic); cyanidation; leaching; crystallization, or precipitation or processes substantially equivalent, necessary, or incidental to any of the foregoing. Mining or mining activity does not include exploration, processes including

electrolytic deposition, roasting, thermal or electric smelting or refining, or excavation or grading preliminary to a construction project.

MOBILE HOME PARK: any parcel of land under single or common ownership or control which contains, or is designed, laid out or adapted to accommodate 2 or more mobile homes. Title 10 M.R.S.A., Section 9091, as amended.

MOTEL and HOTEL: A building or group of buildings designed, intended, or used primarily for providing temporary living quarters which may include provisions for living space, cooking, bathing, and eating.

MULTI-UNIT RESIDENTIAL - a residential structure containing three (3) or more residential dwelling units.

MUSEUM: An institution for the acquisition, preservation, study, and exhibition of works of artistic, historic, or scientific value.

NATIVE – indigenous to the local forests.

NET RESIDENTIAL ACREAGE: The total available acreage, less the area required for streets, access, and portions of the site which are not suitable for development as outlined in 1.11.2 of this Ordinance.

NET RESIDENTIAL DENSITY: The number of dwelling units per net residential acre.

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.

NONCONFORMING LOT: A single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the minimum lot area, lot area per dwelling unit, lot coverage, or frontage requirements of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NON-CONFORMING LOT (in shoreland zone) - 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.

NONCONFORMING STRUCTURE: A structure that does not meet the setback or height standards of the District in which it is located. It is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NON-CONFORMING STRUCTURE (in shoreland zone) - 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.

NONCONFORMING USE: A use of premises that is not permitted in the District in which it is located but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

NON-CONFORMING USE (in shoreland zone) - 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.

NORMAL HIGH-WATER LINE - 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. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

NORMAL HIGH WATER MARK- INLAND: That line on the shores and the banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. It is the line where the vegetation changes from predominantly aquatic to predominantly terrestrial.

NURSERY, COMMERCIAL and GREENHOUSES, COMMERCIAL: An area, building, structure for the storage of live trees, shrubs or plants, offered for retail sale on the premises.

NURSING or CONVALESCENT HOME: A facility in which nursing care and medical services are performed under the general direction of persons licensed to practice medicine in the State of Maine for the accommodation of convalescent or other persons who are not in need of hospital care but who do require, on a 24-hour basis, nursing care and related medical services.

OFFICE BUILDING: A building used for the providing of business services, financial services, human health services, professional services or social services.

OPEN SPACE: Undeveloped land suitable for agricultural uses, recreational uses, scenic uses, or wildlife habitat.

PARABOLIC ANTENNA (also known as a Satellite dish antenna): An antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

PARKING SPACE: An area not less than ten (10) feet wide and twenty (20) feet long, not including the access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto may be construed to be usable area. A parking space to accommodate the handicapped shall be an area not less than

twelve (12) feet wide and twenty (20) feet long.

PEAK FLOW: The greatest rate of flow in a drainage way, measured as volume per unit of time, resulting from storms of up a to 50-year event.

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.

PERSONAL SERVICES: An establishment furnishing services including by way of example: laundry and cleaning services, photography studios, shoe repair shops, barbershops and beauty salons, pet grooming services, health and fitness facilities, and similar services to the general public.

PHARMACY, SOLE SOURCE: A facility where the primary purpose is to dispense or sell a single source of medication that has been recommended by a physician. These facilities have no retail sales component associated with the use and are not engaged in selling multiple goods or merchandise to the general public for personal or household consumption. Typical uses include methadone clinics and other similar facilities.

PIERS, DOCKS, WHARVES, BRIDGES AND OTHER STRUCTURES AND USES EXTENDING OVER OR BEYOND 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.

POND or LAKE: An open body of water, generally equal to or greater than 6 feet deep, that persists throughout the year and occurs in a depression of land or expanded part of a stream and has less than 30 percent aerial coverage by trees, shrubs, or persistent emergent vegetation. These terms do not include farm ponds and similar bodies of water, either naturally-occurring or man-made, that are smaller than a Great Pond and are contained entirely within a single property.

POSTED SPEED: The speed limit set and maintained by the Maine Department of Transportation, or limited by statute as defined in Title 29 M.R.S.A., Chapter 19, Section 2024.

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.

PRIVATE OUTDOOR RECREATION FACILITY: Outdoor recreation facility serving

exclusively a residential use.

PRIVATE ROAD: Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

PROFESSIONAL SERVICES: An establishment furnishing services other than health care requiring a professional degree such as engineering, architectural, and surveying services; non-commercial educational, scientific, and research organizations; accounting, auditing, and bookkeeping services; and similar services.

PUBLIC HEARING: A formal session conducted by the Planning Board, Board of Appeals, or Board of Selectmen during a public meeting of such Board for the specific purpose of soliciting public comment or public feedback, or of informing the public and providing an opportunity for questions and clarification, regarding a land use application, ordinance amendment or group of amendments, new ordinance, or any issue associated therewith, A public hearing is distinguished from a normal business meeting of such Board, at which comments from the public or other interaction with the public may or may not be allowed at the Board's discretion, and is incidental to the Board's conduct of its business.

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 UTILITY: Includes facilities such as, but not limited to substations, pumping stations, water treatment facilities, studios, transmitters, receivers, signal towers, and other buildings, structures or uses necessary or accessory to the operation, or conduct of activities regulated by the Public Utilities Board and businesses or activities which are not so regulated but which provide a public service to the Town of Union, including voice, image or data transmission, radio, television and cable television that are available for use by the general public.

RECENT FLOODPLAIN SOILS - the following soil series as described and identified by the National Cooperative Soil Survey:

Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Alluvial	Cornish	Charles
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

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, camp trailer, and motor home. In order to be

considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

REGULATED ROAD: Every road or road segment that is regulated by access management standards.

RENOVATION: the renewal, repair, replacement, or refurbishment of all or parts of structures that are old, worn-out, nonfunctional, or antiquated.

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.

RESIDENTIAL DWELLING UNIT - 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.

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.

RESTAURANT: A place for the serving of prepared food and beverages to the public. "Restaurant" shall include "fast food" restaurants. A fast food restaurant is the sale of prepared food which is:

- a. primarily intended for immediate consumption;
- b. available upon a short waiting time;
- c. served over the counter or at a drive-up window rather than a table; and
- d. prepackaged or presented in such a manner that it can be readily eaten off the premises where sold.

For purposes of this definition, a neighborhood store that sells prepared food for take-out but whose space is devoted principally to the sale of groceries shall not be considered a fast food restaurant.

RETAIL BUSINESS: The sale of goods and services to ultimate consumers. For the purpose of this Ordinance, retail use shall not include restaurants.

RIGHT-OF-WAY: A defined strip of land, usually with exact dimensions, used in common and designed or intended for the passage of persons, vehicles, and/or animals, created by prescription or easement and memorialized in a deed or subdivision plan, of sufficient width to accommodate the traveled way and any necessary grading, drainage, and other structures associated with the traveled way.

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.

RIVER - a free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

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.

SCHOOL, COMMERCIAL: A place or institution for teaching and learning, which place or institution is established for commercial or profit-making purposes, including, by way of example only, schools for dance, music, riding, gymnastics, photography, driving, or business.

SCHOOL, PUBLIC and PRIVATE: A place or institution for teaching and learning, which place or institution teaches courses of study sufficient to qualify attendance there as being in compliance with State compulsory education requirements. A public school, as differentiated from a private school, is operated by a municipal corporation or school administrative district or, for the purposes of this Ordinance, by a recognized religious organization.

SEPARATOR STRIP: A strip of land that separates the roadway from the throat or parking area of a driveway.

SERVICE DROP (in shoreland zone) - any utility line extension which does not cross or run beneath any portion of a water body provided 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 ROAD: A public or private street or road, auxiliary to and normally located parallel to a public roadway that maintains local road continuity and provides access to parcels adjacent to the public roadway.

SETBACK (in the shoreland) - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

SETBACK- BACK: The distance between the rear line of the lot, extending the full width of the

lot, and the nearest part of any principal or accessory structure. Back or rear setback and back or rear yard are synonymous.

SETBACK- FRONT: The distance between the street, right-of-way, or easement line extending the width of the frontage and the nearest part of any principal or accessory structure. Front setback and front yard are synonymous.

SETBACK- SIDE: The distance between the side property line and the nearest part of any principal or accessory structure. Any lot line not a back lot line or a front lot line shall be deemed a side lot line. Side setback and side yard are synonymous.

SEWERED: Refers to a structure whose waste water facilities consist of a pipe or system of pipes that collects and carries sewage and other waste water to an approved waste treatment facility, not including an individual septic system or other private underground system that relies on the soils for dispersion of waste water prior to discharge to open waters.

SHORE FRONTAGE - 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.

SHORELAND AREA: The land area within two hundred fifty (250) feet, horizontal distance, of the normal high water marks of great ponds, rivers, and lakes located within the Town of Union.

SHORELAND ZONE - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

SHORELINE – the normal high-water line, or upland edge of a freshwater wetland.

SIGHT DISTANCE: The sight distance required to allow a vehicle entering the roadway to reach 85% of the posted speed without being overtaken by a vehicle traveling at the posted speed and approaching the entering vehicle from behind. Sight distance is measured from the perspective of a hypothetical person seated in a vehicle from three vantage points: (1) sitting in the access viewing vehicles traveling on the roadway (both left and right), (2) traveling on the roadway viewing a vehicle sitting in an access, and (3) traveling on the roadway viewing a vehicle turning into the access (both ahead and behind). In case of discrepancy between these measurements, the lesser measurement will be used to determine whether the sight distance standard is met. Sight distance is measured to and from the point on the centerline of the proposed access that is located 10 feet from the edge of the travel way. The height of the hypothetical person's view is considered to be 3 feet above the pavement and the height of the object being viewed is considered to be 4 feet above the pavement.

SIGN: Structure, device, letter, word, model, banner, insignia, or other representation which is used as or is in the nature of an advertisement, announcement, or direction. The area of a sign is the area of the smallest simple geometric shape such as a square, rectangle, triangle, circle, etc. encompassing all lettering, wording, design, symbols, together with any background which is not

the same color as the building. Freestanding signs may be lettered on both sides, which constitutes one sign. An inconspicuous support such as a slim post is not part of a sign area.

SIGN, CHANGEABLE: a sign, whether permanent or temporary, which has the capability to alter its message rapidly, but excludes a sign operated by the Town of Union or the State of Maine. State or Town of Union signs are allowed without restriction.

SIGN, ILLUMINATED: A sign which has characters, letters, figures, designs, or outlines illuminated by electric lighting or luminous tubes as part of the sign and, or whose illumination is derived from an external artificial source.

SIGN, OFF-PREMISE: A sign which is not located upon the same real property as the business, facility, or point of interest which it serves.

SIGN, ON-BUILDING: A sign which is attached to the building wall and which extends not more than six (6) inches from the face of the wall.

SIGN, ON-PREMISE: A sign which is located upon the same real property as the business, facility, or point of interest which it serves.

SIGN, TEMPORARY: A sign of a temporary nature, erected less than thirty (30) days, within any twelve (12) month period, exemplified by the following: political signs, charitable signs; fundraising signs, construction signs, carnival signs, garage sales, lawn sales, rummage sales, and all signs advertising sales of personal property (excluding mobile homes), and for rent signs. Any exterior sign displayed by an ongoing business on the business premises on which the written or printed message changes while the structure of the sign remains unchanged will not be considered a temporary sign. For example, chalkboards and signs with removable lettering shall not be considered temporary signs if in place for thirty (30) days or more within any twelve (12) month period.

SIGNIFICANT RIVER SEGMENTS - See 4.18 or 38 M.R.S.A. section 437.

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.

SOLID WASTE: Useless, unwanted, or discarded solid material with insufficient liquid or gaseous content to be free flowing, including by way of example and not limited to, rubbish, garbage, scrap materials, junk, refuse, inert fill materials and landscape refuse, but not including septic tank sludge, other liquid waste treatment sludge, and agricultural waste.

STREAM - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the

point where the body of water becomes a river or flows to another shoreland area within the water body or wetland.

STREET or ROAD: An existing state, county or town way dedicated for public use and shown upon a plan approved by the Planning Board and recorded at the Knox County Registry of Deeds. The term shall also include private, undedicated roads which are described in a recorded document. The term shall not include those ways that have been discontinued or abandoned, unless the discontinuance or abandonment results in the discontinued or abandoned way becoming a private way.

STRUCTURE: Any constructed or erected material or combination of materials in or upon the ground, including, but not limited to, buildings, mobile homes, radio towers, sheds, signs, decks, and storage bins but excluding fences, sidewalks, and wells and paving in the following items: street, driveways, parking areas or patios.

STRUCTURE (in shoreland zone) - 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.

STRUCTURE, TEMPORARY: Any constructed or erected material or combination of materials in or upon the ground, including, but not limited to, buildings, sheds, decks, storage bins or similar configurations established for seven (7) months or less within any twelve (12) month period.

STUDIO: A facility for the manufacture and sale of artifacts, works of art, and products by hand or with table-mounted or electric hand tools, such as pottery, ceramics, and hand-blown glass objects; a facility for training and small-scale performance of artistic forms of expression, such as music and dance.

SUBDIVISION: A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five (5) year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, building, or otherwise, provided that a division accomplished by device, condemnation, order of court, given to a person related to the donor by blood or marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of said first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single-family residence for a period of at least five (5) years prior to such second dividing. Lots of forty (40) or more acres shall not be counted as lots.

For the purpose of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands 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.

Reference, see Title 30-A M.R.S.A. Section 4401, et seq., as amended.

SUBDIVISION, CLUSTER HOUSING (CONSERVATION OR OPEN SPACE SUBDIVISION): A subdivision in which for the provision of dedicated permanent open space, the lot sizes are reduced below those normally required in the land use district but at or above state minimum lot size requirements.

SUBSTANTIAL START (in shoreland zone) - 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.

TARGETED MARKET COVERAGE AREA: The area, which is targeted to be served by a proposed telecommunications facility.

TERMINAL END: The end section of a run of curb that is sloped to aid the design vehicle in turning into the driveway or to meet the requirements of the Americans with Disabilities Act of 1990, 42 U.S.C. Section 1213 et seq.

THROAT: The portion of a driveway or entrance used to store vehicles waiting to exit from the driveway or entrance.

TIMBER HARVESTING: The harvesting of timber and wood products for commercial purposes.

TIMBER HARVESTING (in shoreland zone)- 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 4.15.16, Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.

TIMBER HARVESTING AND RELATED ACTIVITIES (in shoreland zone)— timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

TIRE STORAGE AREA: An area designated for the purpose of storing tires.

TRADESMAN'S OFFICES, SHOPS, AND SHOWROOMS. The shop of a person in a skilled trade, including by way of example: plumbing, heating, and air conditioning contractors; painting, paper hanging, and decorating contractors; electrical contractors; masonry, stonework, tile setting, and plastering contractors; carpeting and flooring contractors; roofing and sheet metal contractors; drilling, and miscellaneous special trade contractors. Does not include auto repair services.

TRANSPORTATION FACILITY: An installation in a fixed location serving public transportation such as tracks, piers, stations, or storage facilities.

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.

This definition does not include the term “stream” as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland. NOTE: Water setback requirements apply to tributary streams within shoreland zone.

UNREASONABLE ADVERSE IMPACT: That the proposed project would produce an end result, which is:

1. excessively out-of-character with the designated scenic resources or historic or archeological resources or properties affected, including existing buildings, structures, and features within the designated scenic resource, and
2. would significantly diminish the scenic value of the designated scenic resource.

UPLAND EDGE OF A WETLAND - the boundary between upland and wetland. 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. NOTE: Water setback requirements apply to tributary streams within shoreland zone.

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 10%.

VARIANCE: A relaxation of the terms of this Ordinance where such a 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 undue hardship. Variances can only be issued by the Board of Appeals. The words "undue hardship" as used in this subsection mean:

- 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.

In general, the amount of variance granted should be only sufficient to relieve the undue hardship.

VEGETATION - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.

VEHICLE SALES: Any business which involves a parking or display area for the sale of new or used cars, trucks, motorcycles, campers, farm equipment, recreational vehicles, mobile homes, or similar products.

VIEWPOINT: That location which is identified either in the municipally adopted Comprehensive Plan, as that Comprehensive Plan may be amended from time to time, or set forth in Exhibit A attached to this Ordinance and incorporated by reference herein, and which serves as the basis for the location and determination of a particular designated scenic resource in the Town of Union.

VOLUME OF A STRUCTURE - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

WAREHOUSE and STORAGE FACILITY: A structure for the storage of merchandise or commodities, including bulk storage and bulk sales outlet.

WATER BODY - any great pond, river or stream.

WATER CROSSING - any project extending from one bank to the opposite bank of a river, stream, 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 wetland.

WETLANDS ASSOCIATED WITH GREAT PONDS AND RIVERS - Wetlands, contiguous with or adjacent to a great pond or river and which, during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than one hundred (100) feet in width and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

WETLAND, INLAND: Land which, under normal conditions, has saturated soil conditions resulting from permanent or periodic inundation by ground water or surface water and a prevalence of vegetation typically adapted for life in saturated soil conditions (hydrophytic vegetation).

WHOLESALE BUSINESS 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 consumers.

WIND ENERGY FACILITY: A wind tower, tower-mounted electric power generating equipment, and related control and support equipment, but not windmills under 50 ft high coupled directly to a pump for pumping water from below ground or from a surface water body.

WIRELESS TELECOMMUNICATION SERVICES FACILITY: Any equipment including but not limited to cell and radio towers used in connection with the commercial operation of wireless telecommunications services, and as the term "personal wireless service facility" is defined in the Communications Act of 1934, as amended by the Telecommunications Act of 1996, 47 U.S.C. Section 332(c)(7)(C), or as hereafter amended, to transmit and/or receive frequencies, including but not limited to antennas, monopoles, towers and related appurtenances.

WOODY VEGETATION - live trees or woody, non-herbaceous shrubs.

YARD SALES or GARAGE SALES: A sale of used household goods, curios, and the like, limited to four sales a year, in which each sales event lasts no more than three days.