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Town of Unity Maine Ordinances

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Unity Addressing Ordinance
(Proposed for Enactment on January 10, 1996)

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., §3001.

Section 3. Administration

A. Addressing Committee Established:

The Town of Unity hereby establishes an Addressing Committee, which shall be responsible for administering this ordinance; assistance shall be provided as outlined herein by the Board of Selectmen, the Town Clerk and the Code Enforcement Officer (CEO). The Board of Selectmen shall appoint a standing Addressing Committee, with members representative of the following organizations, boards and officials: the Unity Post Office, the Fire Department, the Board of Assessors, the Budget Committee, the Planning Board, the Board of Selectmen, Unity Ambulance Service, UNITEL, the Town Clerk and the Code Enforcement Officer. Appointments shall be made for one-year terms, with no limit on re-appointment. The Committee shall elect a chairperson and any other desired officers from among its membership. Committee meetings shall be scheduled as necessary to accomplish the work assigned within this ordinance. The Committee may adopt rules and procedures as necessary to carry out its duties.

B. Initial Development of System:

1. Committee Responsibility: The Addressing Committee shall develop recommendations for an addressing system for the Town of Unity, including but not limited to the following specific tasks:
   a. the official naming of all existing roads;
   b. the system to be utilized for assigning current and future addresses;
   c. specifications, design and cost-saving opportunities for public and private road name signs; and
   d. other steps deemed necessary and appropriate for development of the addressing system.

2. Public Hearing Required: The Addressing Committee shall hold at least one well-advertised public hearing prior to finalizing its recommendations.

3. Board of Selectmen Vote Required to Authorize: Following the public hearing, the Addressing Committee will make its recommendations to the Board of Selectmen, who shall have the authority to accept, reject or amend the Committee's recommendations. The addressing system shall become *official* upon adoption by majority vote of the Board of Selectmen at a legal meeting of the Board. The addressing system shall not become *effective*, however, until jointly planned and announced by the Board and the postal service as outlined in Subsection 4 below.

4. Postal Service Coordination: Once the Board of Selectmen has acted upon the addressing system, the Addressing Committee shall prepare the map and the Town Clerk shall prepare the lists outlined in Subsection C below and forward these to the Unity Postmaster for postal processing. The Board shall obtain an estimated date of postal address changeover and plan with the postal service to provide proper notification to property owners, residents and emergency service providers with a common effective date as outlined in Section 8 of this ordinance.

C. Maintenance of System:

1. Map: The Addressing Committee shall maintain a town map for official use showing road names and numbers.

2. Computerized Data Base: The Town Clerk shall maintain a data base in the Town Office computer system, designed to provide address lists in one or more formats requested by emergency service providers and the postal service.

3. Road Names: New road names, including subdivision roads as outlined in Section 7, shall be approved by a majority vote of the Addressing Committee.

4. Address Assignment:

   a) Single-unit Structures: Individual addresses shall be assigned by the Code Enforcement Officer (CEO) as part of the building permit process for new structures. No additional fee shall be charged for the assignment of an address. If the structure is readily visible from the road (including during night hours), the CEO shall assign the number of the interval that falls closest to the front door of the structure; otherwise the CEO shall assign the number of the interval that falls closest to the driveway providing access to the structure. If the CEO is unsure of how to handle an address assignment, he or she should request that the Addressing Committee make a recommendation.

   b) Multi-unit Structures: Addresses for multi-unit residential and/or commercial structures, or other unusual building configurations, shall be assigned by the Addressing Committee. Any requests for addresses other than standard interval numbers on existing named roads must be approved by the Addressing Committee.

D. Road Signs: Based upon the recommendations of the Addressing Committee, it shall be the duty of the Board of Selectmen to procure and install road signs for all roads.

Section 4. Naming System

All roads in Unity that serve three or more addresses shall be named regardless of whether the ownership is public or private. Accessways serving less than three addresses may be named at the discretion of the Addressing Committee, which shall base its decision on the likelihood of future development occurring on the accessway. A road name assigned by the Town shall neither constitute nor imply acceptance of the road as a public way. In assigning road names, the Addressing Committee shall endeavor to ensure that no two roads are given the same or similar-sounding (e.g. Beech and Peach, Pine Road and Pine Lane) names.

Section 5. Numbering System

The Addressing Committee shall assign numbers at an appropriate scale to accommodate foreseeable development 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 number origin. The following criteria shall govern the numbering system:

A. Through-Roads: In general, the point of numbering origin shall be the closest point on the end of a road to the junction of the Quaker Hill Road with Routes 9 & 202 (Albion Road and Lower Main Street). When this policy provides no clear starting point, the Addressing Committee shall use its discretion in establishing a point of numbering origin, considering the most likely direction of approach for emergency vehicles and other relevant factors.

B. Dead-end Roads: For dead-end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.

C. Numbering Interval: Once existing structures are located and mapped, the Addressing Committee shall mark intervals along each road at every 50 feet in the Downtown District and every 100 feet in the Rural District, beginning at the point of numbering origin as defined above. Sequential numbers shall be assigned to each interval, alternating between odd numbers on the right side of the road and even numbers on the left side of the road. The *Unity Land Use Map* is hereby incorporated by reference in this ordinance. If the Committee finds that this numbering interval is inappropriate in one or more particular circumstances, it may make exceptions as necessary to accomplish the objective of accommodating all foreseeable development while keeping address numbers as low as possible.

D. Number Assigned: The number assigned to each structure shall be that of the numbered interval falling closest to the front door (if the structure is readily visible from the road) or to the driveway of said structure.

E. Multiple Structures/Uses: Every structure with more than one principal 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; attached commercial units will have one road number with a suite number). Accessory structures such as barns, sheds and garages shall not be assigned a separate number except in unusual circumstances such as when they are the sole structure on a lot, are served by a different driveway than the principal structure, or have a different business telephone number.

Section 6. Compliance

All owners of structures shall, within 30 days of the effective date of new address implementation, display and maintain in a conspicuous place the assigned numbers in the following manner:

A. Number on the Structure or Residence: Each property owner shall display the assigned number on the side of the structure which faces the road. Owners of multi-unit structures shall also display unit numbers at each entrance that an emergency responder would need to find to locate the caller. Directories are recommended for large or spread out complexes to aid in emergency response.

B. Number Displayed at the Road Line: In cases of structures located more than 50 feet from the edge of the road right-of-way, or where the front door is not readily visible from the road, the owner shall display the assigned number on a post, fence, wall, mail box, or on some structure at the property line adjacent to the walk or access drive to the structure. This is in addition to the placement of the number on the structure as required in Section 6.A above. Numbers shall be visible from both directions.

C. Visibility of Numbers: House and road numbers shall be at least 4 inches tall and made of reflective material so as to be highly visible at night.

D. Other Numbers Removed: Every person whose duty it 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 encouraged to post the assigned number and road name adjacent to their telephone for emergency reference.

Section 7. New Construction and Subdivisions

All new construction and subdivisions shall be named and numbered in accordance with the provisions of this ordinance and as follows:

A. New Construction: Prior to the start of construction of any residence or other principal structure, it shall be the duty of the new owner to procure an assigned address from the Code Enforcement Officer or Addressing Committee, as detailed in Section 3.C.4 of this ordinance.

B. New Subdivisions: Any prospective subdivider shall show a proposed road name and lot numbering system on the Preliminary Plan Application to the Planning Board. Approval of the proposed road name and lot numbering system by the Addressing Committee shall be a condition of subdivision approval by the Planning Board. On the Final Plan, the applicant shall mark lines or dots on the plan, in the center of the roads, every 50 feet so as to aid in assignment of numbers to structures subsequently constructed. Subdivision approval shall not exempt a lot owner from receiving an official address from the Code Enforcement Officer prior to construction, as the ultimate address number assigned will relate to the specific location of the structure on the lot.

Section 8. Effective Dates

A. Effective Date of Ordinance: This ordinance shall become effective upon the date of its passage.

B. Official Date of New Road Names and Addresses: Initial road names and address assignments shall become official, but not effective, upon adoption by majority vote of the Board of Selectmen at a legally held meeting.

C. Effective Date of Address Assignment: The new addresses shall become effective on a date jointly agreed-upon and announced by the postal service and the Board of Selectmen. Once the effective date is established, it shall be the duty of the Board of Selectmen to notify by mail each owner or person with a current physical address at least 30 days prior to the effective date.

D. Effective Date of Required Compliance: It shall be the duty of the property owner to comply with Section 6 of this ordinance within 30 days of the effective date of address assignment. On new structures, numbering shall be installed at the start of construction.

Section 9. Enforcement and Penalties

A. Enforcement Authority: Compliance with Section 6 of this ordinance shall be enforced by the Code Enforcement Officer.

B. Penalties:

1. Owner-occupied Structures: As the purpose of this ordinance is for the life safety and public service of residents and users of structures, no penalty for non-compliance shall be levied upon the owner of an owner-occupied structure. Any penalty shall presume to be self-imposed with the assumption of greater risk and inconvenience.

2. Leased Structures: Penalties of $10 per day per unit of non-compliance shall be levied upon owners of structures leased to tenants when such owners refuse, after warning, to display and maintain proper numbering as outlined in Section 6 of this ordinance. Once 30 days have passed from the effective date of required compliance (as defined in Section 8.D above), if the Town finds that a violation exists, the Town shall issue a warning letter by certified mail to the property owner. Unless the violation is corrected, penalties shall begin to accrue on the 15th day following receipt of the warning letter.

3. Violator Responsible for Cost of Prosecution: In the event that court action is necessary, the violator shall be responsible for all costs incurred by the Town in prosecuting the violation, including but not limited to court costs, time spent by Town personnel, and reasonable attorneys' fees.

Section 10. Severability

In the event that any provision of this ordinance is determined to be unenforceable, the remaining provisions shall remain in full force and effect.

TOWN OF UNITY
Board of Appeals Ordinance

1) GENERAL PROVISIONS:

a) Business of the Board shall be conducted in accordance with Maine Statutes, Town Ordinances and Robert's Rules of Order.
b) It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the Town which it may be expected to act upon as well as with the applicable state statutes.
c) It shall be the responsibility of the Board to become familiar with the community goals, desires and policies as expressed in a "Comprehensive Plan", if any, and grant the minimum relief which will insure that the goals and policies of the plan are preserved and substantial justice is done.

2) APPOINTMENTS:

a) The Board shall consist of five (5) members appointed by the municipal officers of the Town of Unity for terms of three (3) years. The initial appointments shall be as follows: two (2) members to serve terms to expire as of the date of the Annual Town Meeting in 1991, and two (2) members to serve terms to expire as of the date of the Annual Town Meetihg in 1992, and one (1) member to serve a term to expire as of the date of the Annual Town Meeting in 1993.,
b) Thereafter, all appointments to the Board shall be for terms of three (3) years.
c) If state law permits, the municipal officers may appoint up to three (3) associate members to the Board. The Chairperson of the Board shall designate which shall serve in place of the absent member.
d) Neither a municipal officer nor his or her spouse may be a member or an associate member of the Board.
e) Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his/her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him/her. The term, "for cause" shall include failure to attend three (3) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest".
f) When there is a permanent vacancy of either a full or associate member, the Secretary shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

3) OFFICERS AND DUTIES:

a) The officers of the Board shall consist of a Chairperson, Acting Chairperson, and Secretary, who shall be elected annually by a majority of the Board.

b) **CHAIRPERSON**. The Chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.

c) **ACTING CHAIRPERSON**. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the power of the Chairperson during the Chairperson's absence, disability or disqualification.

d) **SECRETARY**. The Secretary, subject to the direction of the Board and the Chairperson, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of facts and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected as reasonable times.

4) CONFLICT OF INTEREST:

Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

The term "Conflict of Interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family, (grandfather, father, wife, son, grandson. e.g.) or to his/her employer or the employer of any member of the person's immediate family.

5) POWERS AND LIMITATIONS:

a) The Board shall have the following powers to be exercised only upon receipt of a written appeal by an aggrieved party:
   i) The Board may interpret the provisions of any applicable town ordinance which are called into question.
   ii) The Board may approve the issuance of a special exception permit or conditional use permit in strict compliance with any applicable town ordinance.
   iii) The Board may grant a variance only where strict application of any applicable town ordinance, or a provision thereof, to the petitioner of his property would cause undue hardship. The words "undue hardship" as used in the subsection mean:
      (1) That the land in question cannot yield a reasonable return unless a variance is granted;
      (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;

(3) That the granting of a variance will not alter the essential character of the locality; and

(4) The hardship is not the result of action taken by the applicant or prior owner.

iv) The Board shall have the power to hear and determine all appeals by any person directly or indirectly affected by any decision, action or failure to act with~~in~~ respect to any license, permit, variance or other required approval, or any application therefore, including, that grant, conditional grant, denial, suspension, or revocation of any such license, permit, variance or other approval (thereinafter a "Decision"):

(1) Rendered by the Code Enforcement Officer or the Planning Board pursuant to Shoreland Zoning Ordinance;

(2) Rendered by the Code Enforcement Officer, Plumbing Inspector or Building Inspector relating to building code enforcement pursuant to any statute or Town ordinance;

(3) Rendered by the General Assistance Administrator pursuant to the Ordinance for General Assistance Administration or the Maine statues relating to general assistance;

(4) Rendered by the Planning Board or the Selectmen pursuant to the Subdivision Regulations or the Maine subdivision statute; ~~§841 and 30 M.R.S.A. §2060 (relating to the abatement of taxes);~~

(5) Rendered by the Selectmen or the Assessors pursuant to 36 M.R.S.A. #841 and 30 M.R.S.A. #2060 (relating to the abatement of taxes);

(6) Rendered by the Selectmen pursuant to the Ordinance for the Regulation and Issuance of Special Amusement Permits or 28 M.R.S.A. §702, (also relating thereto);

(7) Rendered by the Selectmen or the Road Commissioner pursuant to the Street Design and Construction Standards Ordinance;

(8) Rendered by the Selectmen pursuant to the Ordinance Regulating Town Cemeteries;

(9) Rendered by the Planning Board or the Code Enforcement Officer pursuant to the Ordinance Relating to Flood Hazard Building Permit System and Review Procedures;

(10) Rendered by the Selectmen pursuant to the policy on Warning Sign Requests;

(11) Rendered by the Selectmen pursuant to the Ordinance Covering Excavations in Public Places;

NO (12) Rendered by the Code Enforcement Officer, Plumbing Inspector or Building Inspector pursuant to the Sanitary Code;

(13) Rendered by the Selectmen pursuant to the Town Personnel Policy relating to grievances and disciplinary procedures with respect to Town employees and officers.

6) MEETINGS:

a) The regular meeting of the Board shall be held once every other month or as necessary.
b) The annual organization meeting of the Board shall be the first regular meeting of the year.
c) Special meetings of the Board may be called by the Chairperson. At least forty-eight (48) hours written notice of the time, place and business of the meeting shall be given each member of the Board, the Selectmen, the Planning Board and the Code Enforcement Officer.
d) The Chairperson shall call a special meeting within ten (10) days of a receipt of a written request from any three members of the Board which request shall specify the matters to be considered at such special meeting.
e) The order of business at regular meetings of the Board shall be as follows: (A) roll call; (B) reading and approval of the minutes of the preceding meeting; (C) action on held cases; (D) public hearing (when scheduled); (E) other business; (F) adjournment.
f) All meeting of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meetings. The Board shall not hold executive sessions except for consultation between the Board and its legal counsel concerning litigation or other legal matters where premature general public knowledge would clearly place the town or Board at a substantial disadvantage.

7) VOTING:

a) A quorum shall consist of three (3) members of the Board.
b) No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, those members present shall be entitled to request the Chairperson to call a special meeting for a subsequent date.
c) All matters shall be decided by a roll call vote. Decisions on any matters before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.
d) A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.
e) If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.
f) If the Board has associate members, the Chairperson shall appoint an associate member to act for a regular member who is: disqualified from voting, unable to attend the hearing, or absent from a substantial portion of the hearing due to late arrival. The associate member will act for the regular member until the case is decided.
g) If the Board has no associate members, no regular member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon; however, where such a member has familiarized him/herself with such matter by reading the record, he or she shall be qualified to vote.

8) APPEAL PROCEDURE:

a) Any person aggrieved by an action which comes under the jurisdiction of the Board pursuant to Section V must file such application for appeal, in writing on forms provided within thirty (30) days of the granting or denial of a permit. The applicant shall file this appeal at the office of the Town Clerk, setting forth the ground for his/her appeal. Upon receiving the application for appeal, the Town Clerk shall notify the Chairperson of the Board.
b) The fee to accompany the application for appeal shall be twenty-five ($25.00) dollars. Checks are to be made payable to the Board of Appeals of the Town of Unity.

9) HEARINGS:

a) The Board shall schedule a public hearing on all appeals application within thirty (30) days of the filing of a completed appeal application.
b) The Board shall cause notice of the date, time and place of such hearing, the location of the building or lot, and the general nature of the question involved, to be given to the person making the application and to be published in a newspaper of general circulation in the municipality, at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. The Board shall also cause notice of the hearing to be given to the municipal officers, the Planning Board, the Code Enforcement Officer, and the owners of the property abutting that for which the appeal is taken at least twenty (20) days prior to the date of the hearing.
c) The Board shall provide as a matter of policy for exclusion of irrelevant, immaterial, or unduly repetitious evidence.
d) The order of business at a public hearing shall be as follows:
   i) The Chairperson calls the hearing to order.
   ii) The Chairperson determines whether there is a quorum.
   iii) The Chairperson gives a statement of the case and reads all correspondence and reports received.
   iv) The Board determines whether it has jurisdiction over the appeal.
   v) The Board decides whether the applicant has the right to appear before the Board.
   vi) The Board determines which individuals attending the hearing are "interested parties". "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board's decision. Parties may be required by the Board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officers, the Planning Board, the Code Enforcement Officer shall automatically be made parties to the proceeding. Other persons attending the hearing and federal, state, municipal and other governmental agencies shall be permitted to make oral or written statements and to submit oral and written questions through the Chair.
   vii) The appellant is given the opportunity to present his or her case without interruption.
   viii) The Board and interested parties may ask question of the appellant through the Chair.
   ix) The interested parties are given the opportunity to present their case. The Board may call its own witnesses, such as the Code Enforcement Officer.
   x) The appellant may ask question of the interested parties and Board witnesses directly.
   xi) All parties are given the opportunity to refute or rebut statement made throughout the hearing.

xii) The Board shall receive comments and question from all observers and interested citizens who wish to express their views.

xiii) The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All participants should be notified of the date, time and place of the continued hearing.

xiv) Written testimony may be accepted by the Board for seven (7) days after the close of the hearing.

The Board may waive any of the above rules if good cause is shown.

10) DECISIONS:

a) Decisions by the Board shall be made not later than thirty (30) days from the date of the final hearing.

b) The final decision on any matter before the Board shall be made by written order signed by the Chairperson. The transcript of the testimony, if any, and exhibits, together with all papers and request filed in the proceedings, shall constitute the record. All decisions shall become a part of the record and shall include a statement of findings and conclusions, as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof.

c) The Board, in reaching said decision, shall be guided by standards specified in the applicable state laws, local ordinances, policies specified in the Comprehensive Plan (if any) and by Findings of Fact by the Board in each case.

d) In reviewing an application on any matter, the standards in any applicable local ordinance or statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.

e) The Board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this ordinance or unsupported by substantial evidence in the record.

f) Notice of any decision shall be sent by certified or registered mail or hand delivered to the applicant, his representative or agent, the Planning Board, the Code Enforcement Officer, and the municipal officers within seven (7) days of the decision.

g) Decisions of the Board shall be immediately filed in the town office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

h) Unless otherwise specified, any order ~~of~~ or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within ninety (90) days from the date of decision; however, that Board may extend this time an additional ninety (90) days.

11) CONSIDERATIONS:

a) The Board may reconsider any decision. The Board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within thirty (30) day of its prior decision. A meeting to decide whether to reconsider shall be called by the Chairperson in accordance with Article VI of these by-laws. The Board may conduct additional hearings and receive additional evidence and testimony.

b) Reconsideration should be for one of the following reasons:

i) The record contains significant factual errors due to fraud or mistake, regarding facts upon which the decision was based; or

ii) The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

12) APPEALS TO SUPERIOR COURT:

The decision of the Board of Appeals may be taken, within thirty (30) days after the decision is rendered, by any party to Superior Court in accordance with the Maine Rules of Civil Procedure.

13) SEVERABILITY:

The invalidity of any section of provision of these By-laws shall not be held to invalidate any other section of provision of the By-laws.

Certified to be a true copy of the Board of Appeals Ordinance for the Town of Unity to be voted upon at the Town Meeting, March 24, 1990.

New Budget Committee Ordinance

UNITY BUDGET COMMITTEE ORDINANCE

(as amended March 25, 1995)

1. Establishment

Pursuant to 30-A MRSA Section 3001 (*Home Rule)*, a Budget Committee is hereby established for the Town of Unity, Maine. This Ordinance seeks to formalize the Budget Committee that has traditionally reviewed the annual Town budget and clarify its duties.

2. Purpose

The purpose of the Budget Committee is to provide a constructive forum for thought and debate on municipal policy development and problem-solving in any matter which is likely to have a financial impact on the townspeople. The Budget Committee shall have no power to enact Town policy or make financial decisions on its own, but will make written recommendations to the Selectmen, the voters, and/or to other organizations as appropriate.

The Budget Committee's activities shall include, but not be limited to the following: coordination of various municipal and quasi-municipal activities; long-range planning and problem solving for Unity's municipal management needs; development of policy options, funding strategies, annual budget recommendations and other matters related to municipal government. The Committee shall develop its own priorities, while also being responsive to requests for advice and assistance from the Board of Selectmen and other municipal concerns as issues arise.

3. Committee Membership

The Committee shall consist of from 7 to 15 members who shall be appointed by the selectmen and who shall be registered voters of the Town. In addition to the appointed members, all three selectmen shall serve as non-voting, ex-officio members of the Budget Committee, whose attendance is expected at all meetings.

Members shall serve for terms of three years, except that they shall continue in office until their successors are appointed. (For transition purposes, the initial terms shall be staggered so that as nearly an equal number of terms shall expire annually.) Appointments shall be made by May 1 of each year, although additional members may be added during the year.

4. Committee Organization and Rules

The Committee shall have an annual organizational meeting during the first week of May. At that meeting, the Committee shall elect officers for the year, set a schedule of regular meetings which shall be not less than quarterly, and identify priority issues for discussion during the year. This schedule shall be posted on the bulletin board outside the Town Office, with meeting topics indicated whenever known in advance. Other meetings shall be given the same public notice, posted as soon as is practicable by the Committee secretary.

Officers shall consist of a chairperson, vice chairperson and secretary from among the appointed membership. In addition to the regularly scheduled meetings during the year, the Committee shall meet as necessary to conduct its business. Meetings shall be called by the chairperson, or upon request of a majority of Committee members, or upon request of the Board of Selectmen. A quorum necessary to conduct business shall consist of at least a majority of voting members.

The chairperson shall preside over meetings. Upon his or her absence, the vice chairperson shall preside and assume other appropriate duties. The secretary shall be responsible for recording minutes of meetings, keeping copies of all documents, records and correspondence of the Committee, and posting public notice of meetings. The Committee may vote to hire clerical support for the secretary in fulfilling his or her duties, if funds are appropriated by the legislative body in a given year.

All meetings and records shall be subject to the Maine Freedom of Access Act, 1 MRSA Sections 401-410. The Committee may adopt rules of procedure not inconsistent with this ordinance. In the absence of additional rules of procedure, the Committee shall rely on Robert's Rules of Order for guidance. A majority vote of voting members present and voting when a quorum is present shall be presumed to constitute an official Committee decision unless other rules are adopted.

Members may participate in discussion, but shall be disqualified from voting, on any matter which may be construed to constitute a conflict of interest. Members shall volunteer identification of such a conflict at the earliest possible time during discussion on the pertinent issue. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and authorized to vote, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, granddaughter, e.g.) or to his or her employer, or to the employer of any member of the person's immediate family.

Members are encouraged to attend relevant educational and policy making sessions held around the state. Reasonable fees and travel expenses may be reimbursed as appropriated by the legislative body in a given year.

Section 5. Powers and Duties

The Committee shall have the following powers and duties:

A. To study long-range capital and operating needs of the Town, researching alternate approaches and funding options. This shall apply to municipal facilities and services, as well as those of quasi-municipal organizations including but not limited to the Unity Fire Department, Unity Utilities District and Unity Athletic Association. The Committee shall also monitor and review all interlocal and regional cooperative efforts, including but not limited to the Unity Area Recycling Center, the Unity Volunteer Ambulance Corporation and interlocal use of the Unity Landfill. The Committee will review and make recommendations on other interlocal efforts for service provision, including but not limited to code enforcement, solid waste disposal and joint purchasing of goods and services.

B. To study the Town's internal funding structure, developing proposals on the most effective and equitable distribution among funding sources for the provision of various services. This shall include but is not limited to permit fees, user fees, special funds, grants, loans and the general property tax. The Committee shall, in its deliberations, consider the relationship between the use of a service, payment for that service and subsidy from other taxpayers, as well as ability to pay, State requirements, and administrative efficiency of the funding system.

C. To study means of attracting desirable industrial and commercial facilities to Unity, or assisting with expansion of existing businesses. Areas to be explored include but are not limited to tax incentives, loans, grants, training programs, and development of an industrial park.

D. To stay abreast of municipal and school funding discussions at the State level and participate in policy deliberations that would have an impact on the Town. Opportunities to increase municipal control over internal financial policies and procedures shall be pursued by the Committee.

E. To review and make recommendations on the annual budget as proposed by the selectmen.

F. To consider and make recommendations on any other matter that may impact the financial health and quality of services of the residents and taxpayers of the Town of Unity.

The Committee's authority shall be advisory only with regard to fiscal commitments or obligations on behalf of the Town. The Committee may take positions on fiscal policy matters and represent the Town's position on legislation or other public policy deliberations at the State level, provided that the position does not conflict with any vote or known feeling of the Town on the matter.

Any recommendation on a matter requiring town meeting action shall be printed with the article in the warrant and on the ballot, if any, along with such other recommendations as may be included by the selectmen or required by law. The selectmen shall cooperate with and provide the Committee with such information as may be reasonably necessary and available to enable it to carry out its functions under this ordinance.

Town of Unity
Cemetery Ordinance
(amended, March 25, 2017)

Section 1. Cemeteries

1. Care of public cemeteries and lots therein shall be under the supervision of the Board of Selectmen which is authorized to engage personnel and provide, by purchase or contract, necessary equipment and supplies.

2. A Cemetery Committee shall be appointed by the Selectmen. The committee shall be responsible to the Selectmen for the control and management of the Unity cemeteries (Boulter, Douglass, Farwell, Fowler, Pond, Quaker Hill, and Village). All Unity cemeteries are public cemeteries.

3. The Selectmen shall appoint, direct, and remove the superintendent/sexton with the advice of the cemetery committee. The superintendent/sexton shall perform all duties assigned by the committee.

4. The committee shall submit a proposed cemetery budget to the Selectmen by the 15th of February of each year.

5. The superintendent/sexton shall see to the digging of all graves. he Town shall keep an accurate record (in a book for that purpose) of the name, age, and sex of each person interred, the lot number of the grave where such body is deposited, and other vital information as appropriate.

Section 2. Ownership and Title of Lots

1. The term "lot owner" or "ownership" shall be construed to mean the rights to use a lot or part of lot, as purchased from the Town, for burial purposes under the rules and regulations as prescribed by the Town and the State of Maine.

2. Any individual wishing to purchase a cemetery lot shall apply to the Town and then select from those lots available the lot he or she desires to purchase. Only after full payment for the lot, including perpetual care charges, will a deed be issued and recorded in Town records.

3. A receipt indicating full payment from the Town Treasurer will serve as a right of burial.

4. The title to a cemetery lot entitles the owner the right to use such lot for burial purposes only, for themselves, their heirs, or for any person they choose without compensation and in accordance with the Cemetery rules and regulations.

5. It shall be the duty of the Town to keep a record of all lots selected and assigned and all transfer of lots in all cemeteries. They shall have plans of all the cemeteries which shall be

accessible to any person desiring information relating thereto, and the Town shall enter upon such plans all lots selected and the names of the holders thereof.

6. All graves shall be opened and closed under the direction of the sexton.

Section 3. Use of Cemetery

1. Flower urns will be allowed. If there is one urn, it shall be placed in front of the monument. If there are two urns, one will be placed on each side of the monument. The same rules apply to evergreen shrubs; one on either side or one in front, not to exceed 36-48 inches in height or breadth at any time. Shrubs shall be maintained by family. If not maintained, the committee reserves the right to remove the shrub.

2. The Town of Unity shall place flags on Veterans' graves in accordance with the requirements of State Law. The family may also place flags,

3. As soon as flowers, wreaths, emblems, etc., become unsightly and faded, they will be removed.

4. Hedges, fencing, walls, curbing, railings, or similar structures or enclosures shall not be erected around gravesites following the adoption of this ordinance. Existing structures or enclosures may be maintained but not expanded.

5. All summer decorations shall be removed prior to October 1st. All winter decorations shall be removed prior to May 1st.

Section 4. Trees and Shrubs

1. Permission to plant shrubs (not to exceed 36 -48 inches) on lots shall in all cases be obtained from the Town, with the Town reserving the right to prune or remove any tree, shrub, or vine, or any part thereof, which may become unsightly or dangerous.

2. If any lot or structure or growth becomes unsightly, the committee has the right, at its discretion, to put said lot or structure in proper condition or repair.

3. If any tree, branch, shrub, hedge, or plant situated on any lot by means of its roots, branches, or otherwise becomes unsightly or obnoxious to adjacent lot owners, or detrimental or inconvenient to avenues or paths, it shall be the duty of the Town to enter upon such lot and remove the same, in whole or in part, at their discretion.

4. Trees will not be planted in Unity cemeteries.

5. Plants, flowers, shrubs, or any memorial container will be placed at the owner's risk. The Town assumes no responsibility for any of the above.

6. No glass containers shall be used at any time.

Section 5. Opening and Closing of Graves

1. No interments or disinterment shall take place on any lot in Unity cemeteries until such intentions are made to the Town Clerk in writing. The Town Clerk will then notify the superintendent/sexton.

2. Following the interment or disinterment, excavators shall be responsible for restoring and leveling the gravesite. No sites shall be mounded. Excavators shall remove all excess material from the site and repair damage to any other plots. Excess material shall be used to level between lots as appropriate. Disturbed areas shall be sodded and seeded.

3. No mounds shall be raised upon any grave above the general level of the lot. The Town reserves the right at any time to remove unsightly mounds and to re-sod the grave at the general level of the lot.

4. Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk as required by law. All removals will be made under the supervision of a licensed funeral director. All costs will be assumed by the requestor.

5. All caskets should be enclosed in a permanent outside container. The following are considered permanent outside containers: concrete liner; concrete, copper, or steel burial vaults; and sectional concrete.

Section 6. Care of Cemetery and Cemetery Lots

1. Gravestones - All head stones or monuments shall have a foundation. All markers shall be flush with the surface of the ground and do not require a foundation.

2. All cemetery lots in Unity cemeteries will be provided with perpetual care or endowed care, which shall include mowing and lawn care at least every 10 days during the summer season (May 10th - July 30th) and then every 14 days through October 15th, depending on the grass height; upkeep of cemetery roads; and repair of fallen headstones. The Town will keep the Kanokolus Road paved, through the cemetery, in order to protect gravesites close to the road in the Pond Cemetery.

3. Unity veterans shall not be charged for a single lot. Such veterans shall have been born in Unity and/or been a resident of Unity for a period of 10 consecutive years. Perpetual care payment is not waved for veterans and shall be made prior to receipt of deed.

Price Schedule --As determined by the Selectmen on advice of the Cemetery Committee. See Schedule A.

Cemetery Management. All funds received for the sale of lots and other non-specified incidental cemetery income shall be deposited in an account established by the Town Treasurer and shall be entitled the Cemetery Maintenance Management and Improvement Fund and shall be treated as a proprietary account. All balances shall be carried forward yearly. Monies in this account shall be used only for cemetery purposes. No more than 1/2 of the account balance may be spent in one fiscal year.

Perpetual Care Fund. A second account shall be established by the Town Treasurer titled Perpetual Care Account All cemetery perpetual care funds shall be accounted for through this account. This account is not part of the Town's general management funds. These funds may be pooled with other Town general funds for investment purposes with interest earned through such arrangement accordingly pro-rated. No expenditures of the principal funds shall be allowed at any time. Expenditures from the interest earned shall be used as provided by M.R.S.A. Title 30-A ss.5711-5719. Such expenditures shall not exceed 50% of the interest earned in a given year.

Cemetery Management. The Cemetery Management and Perpetual
Care Funds shall be invested by the Town Treasurer under the direction of the Selectmen (as required by Title 30-A M.R.S.A. ss57115719).

The original cemetery ordinance was enacted on March 30, 2002. The bolded and underlined amendments shall become effective on passage at a Town Meeting.

This ordinance may be amended in accordance with the general provisions of the Town Meeting governing all ordinances.

The invalidity of any portion of the ordinance shall not invalidate any other part.

Effective date of this amended ordinance, March 25, 2017

Signature - Selectpersons

1. _____

2. _____

3. _____

Moratorium Ordinance
Regarding Commercial Wind Mill Towers

The TOWN OF UNITY (Maine) adopts a Moratorium Ordinance as Follows:

WHEREAS, areas of the Town of Unity are suddenly under threat of increased development pressure from the construction of Commercial Wind Mill Towers (hereinafter "Towers"), defined as any tower over 35 feet in height constructed for the primary purpose of generating electrical power for sale offsite, but excluding any tower that is constructed for the primary purpose of providing electrical power to an onsite home or business and where sale of power offsite is incidental to that onsite use.

WHEREAS, this development pressure was unanticipated and has not been adequately provided for in the Town's current Land Use Ordinance; and

WHEREAS, there is as strong likelihood that areas in the Town with higher elevation will continue to be subjected to such development pressure due to the amount of such land, its relatively low price, the increasing demand for sites for such Towers, and the nonexistence of any regulations or restriction on location of such Towers; and

WHEREAS, continued development of such Towers pursuant to the current Land Use Ordinance could pose serious unknown threats to the public health, safety, and welfare of the residents of Unity through the over development of parts of Town with such Towers without adequate provisions for issues of safety, noise, lighting, land use compatibility as well as visual access to view corridors and visual impacts: and

WHEREAS, the Town will need at least 180 days to develop and implement the necessary amendments to zoning and land use ordinances and regulations to consider and accommodate these development pressures; and

WHEREAS, amendments to the Land Use Ordinance require a public hearing by the Planning Board and the Board of Selectmen, and then must be voted upon at a Town Meeting; and

WHEREAS, in the Judgment of the Town, these facts create an emergency within the meaning of 30-A M.R.S.A. 4356 (1)(B) and require the following Moratorium Ordinance as immediately necessary for the preservation of the public health, safety and welfare;

NOW, THEREFORE, the Town of Unity hereby ordains that a moratorium is hereby imposed, effective immediately and applicable to the maximum extent permitted by law and subject to the severability clause below, to all proceedings, applications and petitions not pending (within the meaning of M.R.S.A. Sec. 302) as of June 24, 2010, and on any new construction or use, requiring approval under the terms of the Town's zoning and land use ordinances and regulations for such Town until the effective date of the necessary amendments to the zoning and land use ordinances and regulations or until December 22, 2010;

BE IT FURTHER ORDAINED, that the Planning Board, Board of Appeals, the Building Inspector/C.E.O., all Town agencies and all Town employees shall neither accept nor approve applications, plans, permits, licenses, and/or fees for any new construction or uses governed by this Moratorium Ordinance for such Towers for said period of time; and

BE IT FURTHER ORDAINED, that those provisions of the Town's Land Use Ordinance and regulations which are inconsistent or conflicting with the provisions of this Moratorium Ordinance, including, without limitation, the requirements for site plan review, or special exception review by the Planning Board, or variance appeals by the Board of Appeals, are hereby suspended to the extent that they are applicable for the duration of the Moratorium Ordinance hereby ordained, but not otherwise;

BE IT FURTHER ORDAINED, that to the extent any provision of the Moratorium Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Moratorium Ordinance shall remain valid.

EMERGENCY CLAUSE:

In view of the emergency cited in the preamble, this Moratorium Ordinance shall take effect immediately upon passage by the Town, shall apply, to the maximum extent permitted by the law but subject to the severance clause above, to all proceedings, applications and petitions not pending as of June 24, 2010, and shall stand repealed as of December 22, 2010.

Passed @ Town Meeting 3/26/1983

~~PROPOSED~~ DOG CONTROL ORDINANCE

For the Town of Unity, Maine

Sec. 1
A person commits a civil violation if any dog owned by him or subject to his control, whether domestic or otherwise, goes at large on any highway, street, land, alley, common, square, or any other public place within the Town, or upon the property of another person without the consent of that person, after such owner has been previously warned by any law enforcement officer, dog control officer, justice of the peace, or any other public official authorized for these purposes, that any dog owned by him or subject to his control had been at large, except that dogs when used for hunting may be permitted to go at large. The words "at large" shall mean off the premises of the owner, or keeper, and not under the control of any other person by means of a chain, rope, cord of sufficient strength to control the dog, or such personal presence and attention as will reasonably control the conduct of such dog. Upon complain of any person, any dog found at large, as defined by this ordinance, may be seized and impounded by any law enforcement officer, dog control officer, or other public official authorized for these purposes, and that dog's owner or keeper shall be liable for all related costs. Any dog so found not bearing the identification of its owner shall be classified as a stray, and may be humanely disposed of, or sold, after being held for 8 days. Such officer may keep such dog in any appropriate facility within or without the Town.

Sec. 2
A person commits a civil violation if he owns, or keeps, any dog 6 months or older if such dog has not been vaccinated with anti-rabies vaccine within 24 months preceeding the date on which said dog is owned or kept. Proof of vaccination shall be filed with the Town Clerk within 10 days after the vaccination or within 10 days after said dog is brought into the Town. A filing fee of $ 1.00 shall be paid to the Town Clerk if the dog is not licensed in the Town. Proof of vaccination shall be affixed to said dog in an acceptable manner. Failure to file proof of vaccination or failure to produce proof of vaccination upon demand of any law enforcement officer, dog control officer, or other public official authorized for these purposes, shall be prima facie evidence that said dog has not been vaccinated.

Sec. 3
A person commits a civil violation of he owns, or keeps, any dog which creates a nuisance by habitually barking, biting, howling, or in any other manner disturbing the peace and quiet of any other person, after that owner, or keeper, had been previously warned by any law enforcement officer, dog control officer, justice of the peace, or any other public

official authorized for these purposes, that his dog, or dogs, have been disturbing the peace and quiet of another person or persons. Penalty: A forfeiture of not less than $25, nor more than $100, shall be abjudged for a violation of any section of this ordinance.

Unity Economic Development Committee Ordinance

ARTICLE I ESTABLISHMENT

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution, and 30-A MRSA §3001, the Town of Unity hereby establishes the Unity Economic Development Committee (hereinafter referred to as "Committee").

ARTICLE II PURPOSE AND AUTHORITY

The Committee shall advise and make recommendations to the Board of Selectmen on matters related to economic development, which include but are not limited to business assistance programs, economic development incentives, business climate, business attraction and retention, marketing opportunities, investment incentives and other issues that may promote economic development.

In addition, the Committee may be responsible for managing one or more economic development programs and budgets to the extent authorized by the Board of Selectmen or Town Meeting vote. Final authorization for any budgeted expenditure or contractual agreement resides with the Board of Selectmen.

ARTICLE III GOALS AND PRIORITIES

In doing its work, the Committee will ensure that policies and strategies it develops are in keeping with the Unity Comprehensive Plan and the following economic development goals: diversifying the local tax base, creating local jobs, providing citizens and visitors with local services and improving the overall quality of life in Unity. Galvanizing and strengthening local businesses will be a priority, followed by attracting complementary businesses that will enhance the commercial center and maintain the rural character of the town.

ARTICLE IV DUTIES AND RESPONSIBILITIES

Committee members shall:

1. Work in a coordinated fashion, respect all points-of-view and, in carrying out its duties and tasks, shall adhere to the Town's Comprehensive Plan as well as the values and mission of the Town of Unity.
2. Review and understand the Town's current economic development challenges and incentives.
3. Interface with businesses seeking economic development assistance including requests for local Tax Increment Financing (TIF) assistance.
4. Provide recommendations and guidance to the Board of Selectmen regarding use of TIF revenues. Prepare the annual TIF budget.
5. Have responsibility for the structure of any Town revolving loan fund and/or grant fund for economic development/business assistance purposes.

6. Advise on tools that could be used to encourage economic development and community investment opportunities.
7. Serve as ambassadors of Unity and promote the Town to their contacts.
8. Provide business leads and contacts to the Town where appropriate.
9. Be respectful of all other Committee members and work positively toward accomplishing Committee objectives.

ARTICLE V MEMBERSHIP

The Committee shall consist of no less than 7 or more than 17 members appointed by the Board of Selectmen and should represent a diverse cross section of Unity's economic base including representatives of:

- A member of the Board of Selectmen
- Technology business
- Retail business
- Home-based business owner
- Downtown business owner
- Banking or finance professional
- Farming/agricultural
- MOFGA
- Unity Barn Raisers
- Unity College (staff & students)
- Other non-profit
- High School Students

Every effort shall be made for membership to include both young adults and retired individuals. No more than 25% of members may be non-residents.

ARTICLE VI OFFICERS AND ROLES

Members will meet at the first opportunity after annual appointments to elect a chair, a vice-chair and a secretary to serve for one year unless otherwise provided. The Committee may develop additional roles as circumstances direct and select Members to be responsible for leading those areas of the Committee's work.

The **Chair** shall preside at all Committee meetings and shall have authority to rule on questions of evidence and procedure, to maintain order and determine the course of proceedings, and to take such other action as may be necessary and not inconsistent with these bylaws or other law to enable the committee to perform its duties and conduct its affairs. The Chair also shall set the agenda for each meeting and provide the agenda to the Town Clerk for posting as required. It will be expected that the Chair or an appointed designee will attend one Selectmen's meeting each month and submit a written report of activities to the municipal officers to be included in the Annual Town Report. The Vice-Chair shall assume the responsibilities of Chair in the Chair's absence.

The **Secretary** shall maintain a permanent record of all Committee meetings and all correspondence of the Committee, which shall be a public record except as otherwise provided by law. The secretary shall be responsible for providing the Town Clerk a copy of all meeting minutes.

ARTICLE VII APPOINTMENTS, TERMS & TERMINATION

Committee Members shall be appointed by the Board of Selectmen.

Committee Members are appointed for a period of two (2) years. Terms shall be staggered with the initially appointed Committee having one-half of the members appointed to two-year terms and one-half of the members appointed to one-year terms. Members may be appointed to serve three consecutive terms and must have a minimum of one year off before being appointed again.

Committee Members may be removed by a majority vote of the Committee and confirmed by a majority vote of the Board of Selectmen.

ARTICLE VIII MEETINGS AND PROCEDURES

1. The Committee shall hold an organizational meeting at the first opportunity following annual appointments to orient members, elect officers and establish an annual workplan and meeting schedule.
2. The Committee will schedule other meetings as it deems necessary, providing public notice to the Town Clerk for posting.
3. Attendance shall be considered a quorum when 50% of the members are present.
4. Votes shall pass by a simple majority.
5. Members must recuse themselves from participating in any discussions or votes on any matter where that member has a conflict of interest regarding that matter.
6. Members are expected to attend ¾ of the meetings held with no more than 4 consecutive "unexcused" absences. An excused absence may be requested of the Chair in advance of scheduled meetings.
7. Following attempts to resolve issues within the Committee, the Committee will vote on removal of any Member(s) violating any of the Duties, Responsibilities, Attendance or Procedures outlined in this Ordinance. Upon an affirmative Committee vote, the Chair will make recommendation to the Board of Selectmen for confirmation of removal.
8. The Committee may adopt bylaws or other rules of procedure to manage its affairs beyond provisions of this Ordinance provided they do not conflict with this Ordinance.

ARTICLE IX AMENDMENTS

This Ordinance may be amended at any legally called Town Meeting. The Town Clerk is authorized to renumber sections as needed to incorporate amended language.

ARTICLE X EFFECTIVE DATE

This Ordinance becomes effective upon date of passage.

FLOODPLAIN MANAGEMENT ORDINANCE

FOR THE

TOWN OF UNITY, MAINE

ENACTED: March 28, 2015
Date

EFFECTIVE: March 28, 2015
Date

CERTIFIED BY: Susan J Lombard
Signature

CERTIFIED BY: Susan J. Lombard
Print Name

Town Clerk
Title

Affix Seal

60.3(c)
Prepared on 1/19/15 by DACF/SB

FLOODPLAIN MANAGEMENT ORDINANCE

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60.3 (c) Rev. 01/15

ARTICLE I - PURPOSE AND ESTABLISHMENT

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

The areas of special flood hazard, Zones A and AE, for the Town of Unity, Waldo County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Waldo County" dated July 6, 2015 with accompanying "Flood Insurance Rate Map" dated July 6, 2015 with panels: 70E, 90E, 95E, 210E, 220E, 230E, 235E, 240E, and 245E, derived from the county wide digital Flood Insurance Rate Map entitled "Digital Flood Insurance Rate Map, Waldo County," 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 Unity, 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 - Waldo 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

Applications shall be submitted to the Town Clerk accompanied by the prescribed application fee. The application fee shall be determined by the Board of Selectmen upon recommendation of the Planning Board. The fee shall be designed to approximate the cost incurred by the Town for administering the ordinance. Upon receipt of an application and the required fee, the Town Clerk will stamp the application with the date of receipt and forward the application to the Code Enforcement Officer.

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 - Waldo 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 AE and A, 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. be 500 square feet or less and have a value less than $3000;

2. have unfinished interiors and not be used for human habitation;

3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;

4. be located outside the floodway;

5. 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,

6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

K. **Floodways** -

1. In Zone AE riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's Flood Insurance Rate Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

2. In Zones AE and A, riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that

the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,

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

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

L. **Enclosed Areas Below the Lowest Floor** - New construction or substantial improvement of any structure in Zones AE and A 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 AE and A shall be designed such that:

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

2. a registered professional engineer shall certify that:

   a. the structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Article VI.K.; and

   b. the foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.

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

   1. Zones AE and A shall:

      a. have the containment wall elevated to at least one foot above the base flood elevation;

      b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,

      c. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K.

O. **Wharves, Piers and Docks -** New construction or substantial improvement of wharves, piers, and docks are permitted in Zones AE and A, 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 Unity 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 AE or A, 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 AE or A, **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 earths 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. 01/15
Prepared by DACF/SB

TOWN OF UNITY

LAND USE ORDINANCE

ADOPTED: MARCH 25, 1995

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UNITY LAND USE ORDINANCE

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Section I. General Provisions

1. Title

This Ordinance shall be known and cited as the *Unity Land Use Ordinance* and will be referred to as "this Ordinance."

2. Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A MRSA, Section 3001 (*Home Rule*), Title 30-A MRSA, Sections 4311 et seq. (*Comprehensive Planning and Land Use Regulation, or "Growth Management" Act*), and Title 30-A MRSA, Sections 4401 et seq. (*Subdivision Law*). This Ordinance is founded upon and pursuant to Unity's Comprehensive Plan as adopted on March 27, 1993 and amended on October 26, 1993.

3. Purposes

The purposes of this Ordinance are to fulfill policies expressed within Unity's 1993 Comprehensive Plan, as restated below:

A. to allow for affordable residential and commercial growth, while preserving Unity's rural character, particularly its open land, scenic beauty and reasonable tax rate;

B. to guide growth to make efficient use of land and public facilities;

C. to help protect the natural resources of the community from degradation;

D. to foster harmonious co-existence of commercial, residential, recreational and other potentially conflicting activities;

E. to provide a degree of clarity and consistency to the Town's treatment of growth and development;

F. to invite and encourage additional complementary commercial and industrial development;

G. to protect landowners' rights and freedom of choice in development activities;

H. to minimize adverse traffic impacts; and

I. to promote the health, safety, and general welfare of the residents of the community.

4. Applicability

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Unity.

5. Conflicts with Other Ordinances, Laws and Regulations

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute from any jurisdiction, the more restrictive provision shall control.

6. **Validity and Severability**

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

7. **Effective Date; Repeal of Prior Ordinances**

This Ordinance becomes effective on April 1, 1995. This Ordinance repeals and replaces the *Unity Minimum Lot Size Ordinance* and the *Unity Building Permit Ordinance*.

8. **Availability**

A copy of this Ordinance shall be available for review at the town office. Additional copies shall be made available to Unity residents upon request.

9. **Amendments**

A. An amendment to this Ordinance may be adopted by a majority vote of Town Meeting. A proposal to amend this Ordinance may be placed on the warrant of any Town Meeting by:) 1) the Planning Board; 2) the Comprehensive Plan Committee; 3) the municipal officers; or 4) written petition of at least 25 voters registered to vote in Unity, filed with the municipal officers.

B. Prior to a Town Meeting at which a proposed amendment will be considered, the Planning Board shall hold a public hearing. Notification of the hearing shall be posted at the town office and advertised in a newspaper of general circulation in the municipality on two occasions, once at least 14 days prior to the hearing, and a second time 7-14 days prior to the hearing.

C. If an amendment is proposed which changes land regulation within 500 feet of a common town border, the Town Clerk shall forward notice to the Selectmen and Planning Board of adjacent communities at least ten days in advance of the public hearing. The adjacent community may provide verbal or written testimony.

D. At any time this Ordinance is amended, the Town Clerk is authorized to insert and/or delete amendments, add and/or delete inconsistent references within the Ordinance caused by such amendment(s), and renumber sections of the amended Ordinance in a logical and appropriate fashion, provided said changes do not result in any substantive alteration in the meaning of the Ordinance.

Section II. Administration

1. Administering Bodies and Agents

A. Board of Selectmen

The Board of Selectmen shall appoint or reappoint a Code Enforcement Officer (CEO) annually by July 1st. The Board of Selectmen shall provide the necessary authorization and support for the CEO in enforcing the provisions of this Ordinance, including the retention of an attorney if necessary to assist in the prosecution of a serious violation.

B. Code Enforcement Officer

The Code Enforcement Officer shall have the following powers and duties:

a) Enforce the provisions of this Ordinance.
b) Review applications for occupancy permits and issue such permits where authorized by this Ordinance;
c) Review applications for building permits, and recommend action to the Planning Board as authorized in this Ordinance.
d) With the consent of the owner, occupant, or agent, enter any property at reasonable hours to inspect the property or building for compliance with this Ordinance.
e) Investigate complaints and reported violations.
f) Keep written inspection reports and thorough records.
g) Issue violation notices.
h) Participate in appeals procedures.
i) Confer with the Board of Selectmen as necessary to obtain proper authorization for prosecution and/or retention of legal counsel.
j) Appear in court when necessary.
k) Confer with citizens and assist them in understanding this Ordinance.
l) Attend meetings of the Board of Appeals and the Planning Board.
m) Revoke a permit within his jurisdiction after notice and hearing if it was issued in error or if it was based on erroneous information. Inform the Planning Board of any similar problems discovered in permits issued by the Board.

C. Town Clerk

The Town Clerk shall keep blank application forms for each type of permit on file at the town office. The Clerk shall receive all permit applications and fees due, and forward applications to the appropriate administrative body for review. The Clerk shall maintain a file of permit applications, permits and enforcement notices.

D. Planning Board

The municipal Planning Board shall be responsible for reviewing and acting upon applications for building permits, development permits, road construction permits, and lot permits.

E. Road Commissioner

The municipal Road Commissioner shall perform site evaluations and play a role in issuing driveway and road construction permits. The Road Commissioner shall maintain close communication with the CEO and the Planning Board to facilitate consistent treatment of permit applications.

F. Board of Appeals

The municipal Board of Appeals shall be responsible for deciding administrative appeals and variance requests according to the procedures outlined in the *Board of Appeals Ordinance for the Town of Unity.*

2. Permits Required

A person must obtain a permit before engaging in any of the following activities:

1) constructing a new driveway or road;
2) constructing, expanding, or paving for certain parking lots located in the downtown district;
3) building, locating or relocating any structure larger than 100 square feet;
4) expanding any existing structure by more than 100 square feet;
5) exterior renovations to those downtown properties that must follow Design Guidelines. (See Section VIII for what type of properties are exempt.)
6) dividing of land or structures in a way that constitutes a subdivision (as defined);
7) engaging in any new "high-impact" land-use activity, as outlined in this Ordinance;
8) creating a new lot;
9) occupying any of the following: a new structure; a new building addition (larger than 250 square feet); a new rental unit created within an existing structure; any structure or rental unit that has been vacant for more than one year; any structure that will be used for commercial activities new to that structure.

3. Types of Permits

1) Driveway Permit: A driveway permit shall be obtained from the Road Commissioner and Code Enforcement Officer before a location is finalized and any construction is begun.

2) Road Construction Permit: A road construction permit shall be obtained from either the Road Commissioner and CEO, or from the Planning Board, as outlined in this Ordinance, before a location is finalized and any construction is begun.

3) Parking Lot Permit: A parking lot permit shall be obtained from the Planning Board for: a) constructing any new parking area or paving any existing parking area which will accommodate more than 10 vehicles in the downtown district or more than 3 vehicles in the village district; or b) expanding any existing parking area so that the combination of existing and new space will accommodate more than 10 vehicles in the downtown district or more than 3 vehicles in the village district.

4) Building Permit: A building permit shall be obtained from the Planning Board for: a) constructing, locating or relocating any structure larger than 100 square feet; and b) expanding any existing structure by more than 100 square feet.

5) Development Permit: A development permit shall be obtained from the Planning Board for: a) any use that qualifies as a high-impact land use activity (as defined); and b) any use constituting a subdivision (as defined) of land or structure.

6) Lot Permit: A lot permit shall be obtained from the Planning Board for the creation of any new lot.

7) Occupancy Permit: An occupancy permit shall be obtained from either the Planning Board or CEO, as outlined in this Ordinance, prior to occupancy of: a) any new structure, including building additions larger than 100 square feet; b) any new rental unit (commercial or residential) created within an existing structure; c) any existing structure or rental unit within that structure that has been vacant for more than a year; or d) any structure that will be used, in whole or in part, for a commercial enterprise that is new to that structure (other than a home-based business, which is exempted). Issuance of these local permits will be conditional on receipt of all necessary State permits.

8) Sign Permit: A sign permit shall be obtained by the Code Enforcement Officer before erecting any commercial sign that is either larger than 10 square feet or illuminated.

4. State Fire Marshal Permits

As of January 1, 1996, the State Fire Marshal requires that construction and renovation of certain classes of buildings be professionally designed and receive a Construction Permit and a Barrier-Free Permit. It is the responsibility of applicants for local building permits to contact the Office of the State Fire Marshal to learn more about state requirements. Applicants may wish to seek State approval after receiving local approval, in which case local approval will be conditional on subsequent state approval. Conversely, applicants may wish to obtain State permits before submitting a local application. Applicants who are proposing work that is subject to Unity's Design Guidelines are urged to meet with the Planning Board to discuss these Guidelines before they seek design approval from the State Fire Marshal.

5. Permit Application

A. Application Procedure

Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the Town Clerk at the town office.

All applications shall be signed by the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property, then that person shall submit a letter of authorization from the owner or lessee.

Upon receipt of the completed application and the required fee, the Clerk shall stamp the application with the date of receipt and forward the application to the appropriate party (i.e., the Planning Board, Code Enforcement Officer; and/or Road Commissioner).

B. Special Requirements for Certain Building Permit Applications

1) All building permit applications requesting approval for a new structure or building addition that will result in the discharge of wastewater shall contain one of the following:

- evidence that a septic system capable of receiving and adequately treating the anticipated discharge either already exists or will be constructed.

- evidence that a connection to the Unity Utilities District either already exists or has been approved.

2) All building permit applications involving downtown properties that must follow Design Guidelines shall include sufficient detail to allow the Planning Board to assess adequately either the proposed design or landscaping plan.

C. Application Fees

No fee will be charged for a lot permit. A schedule of fees for all other permits shall be approved by the Board of Selectmen upon the recommendation of the Planning Board. No permits shall be issued until all fees have been paid.

6. Procedure for Administering Permits

A. Building Permits

The Town Clerk shall forward a copy of received applications to the Code Enforcement Officer. The CEO shall contact the applicant and schedule a site visit at a mutually agreeable time. The site visit should occur within 10 business days after the application was submitted to the Town Clerk.

Within 2 business days of the site visit, the CEO shall: a) decide whether or not to recommend the application for approval to the Planning Board; b) communicate this decision to the applicant; and c) forward a copy of the application, together with his/her recommendation, to the Planning Board.

If the CEO is incapacitated or otherwise unavailable for a site visit within 10 business days, the Town Clerk may, at the request of the applicant, forward a copy of the application directly to the Planning Board, which may consider the application without a site visit.

All applications for building permits received by the Planning Board within 3 business days of a regular Board meeting, shall be placed on the agenda of that meeting. The Planning Board shall review all applications, and decide whether or not to grant building permits. Wherever practical, the Board will act on each application at the first meeting where it is taken up. If it is found that additional information is required, the application will be considered old business and given priority for continued review at the next meeting, provided the additional information is supplied by the applicant.

B. Driveway Permits

The Town Clerk shall forward a copy of received applications for a driveway permit to both the CEO and the Road Commissioner. The CEO shall contact the applicant and the Road Commissioner to arrange a joint site visit of the property. If the CEO and Road Commissioner both find that the requirements of this Ordinance shall be met by the applicant, they shall jointly approve a driveway permit.

C. Road Construction Permits

The Town Clerk shall forward a copy of received applications for a road construction permit to the Planning Board, the CEO, and the Road Commissioner. The CEO shall contact the applicant and the Road Commissioner to arrange a joint site visit of the property, for the purpose of gathering information. The application shall be discussed at the next Planning Board meeting. If the Planning Board finds that the proposed road will serve a new subdivision or other activity that triggers development review, then the application for a road construction permit will be decided by the Planning Board with input from the CEO and Road Commissioner, and a road construction permit will be issued if and when a development permit is issued. If the Planning Board finds that the proposed road does not serve an activity that would trigger development review, then the application for a road construction permit will be decided jointly by the CEO and Road Commissioner. In either case, a permit shall be issued wherever the requirements of this Ordinance are met.

D. Development Permit

Detailed procedures are outlined in Section X.

E. Lot Permit

The Town Clerk shall forward a copy of received applications for a lot permit to the Planning Board. If an application is received by the Clerk within 4 business days of the Planning Board's next meeting, it shall be placed on the agenda of that meeting. The Board shall approve all applications that meet the lot requirements of this Ordinance.

F. Occupancy Permit

The Town Clerk shall forward a copy of the received application to both the CEO and the Chair of the Planning Board. The CEO shall contact the applicant and schedule a site visit at a mutually agreeable time. The CEO may issue an occupancy permit wherever he/she feels all local and state requirements are being met, except where the proposed use is likely to: a) result in a net increase of more than 20 employees; b) exceed existing off-street parking; or c) create any noise, odor, or other nuisance disturbing to neighboring properties. In such circumstances, the Planning Board shall consider the permit application, in consultation with the CEO. The Planning Board and CEO may only deny a permit if some requirement of a local ordinance or state law is not being met.

7. Conditions for Permit Approval

Permits may be made subject to reasonable conditions to ensure conformity with the purposes and

provisions of this Ordinance. If a permit is approved with conditions, the conditions shall be clearly stated in writing.

8. Burden of Proof

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.

9. Expiration

A permit authorizing construction will expire within one year of the date of issuance if no substantial start (as defined) is made on construction. A lot permit and subdivision approval will expire if any newly created lots are not recorded with the Registry of Deeds within 60 days of the Planning Board's decision.

10. Enforcement

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

B. Enforcement Procedure

1) The Code Enforcement Officer shall enforce the provisions of this Ordinance. If the Code Enforcement Officer finds that any provision is being violated, he/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. (Such actions may include: discontinuance of an illegal use of land, buildings or structures; termination of work being done; removal of illegal buildings or structures; and abatement of nuisance conditions.) A copy of such notices shall be submitted to both the municipal officers and Planning Board and be maintained as a permanent record by the Town Clerk.

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.

3) The Code Enforcement Officer shall keep a complete record of all essential transactions, including applications submitted, permits granted or denied, variances granted or denied, complaints received, revocation actions, appeals, court actions, violations investigated, violations found, and fees collected. Copies shall be provided to the Town Clerk for permanent filing in the town office.

C. Legal Actions & Penalties

When the CEO's actions do not result in the correction or abatement of the nuisance, he may request that the municipal officers institute various actions and proceedings, either legal or equitable, including seeking injunctions or imposing fines, as may be appropriate or necessary to enforce the provisions of this Ordinance.

The municipal officers are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance without Court action. Such agreements shall not allow an illegal structure or use to continue unless: a) 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 b) there is no evidence that the owner acted in bad faith.

Any person, including a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A MRSA Section 4452.

11. Appeals

An applicant or other aggrieved party may appeal any decision of the Road Commissioner, Code Enforcement Officer or Planning Board, or apply for a variance, by filing with the Board of Appeals according to the procedures outlined in the *Board of Appeals Ordinance for the Town of Unity.*

Section III. Non-Conformance

1. Purpose

It is the intent of these provisions to promote land use conformities, except that non-conforming conditions that legally existed as of the effective date of this Ordinance or any amendment thereto shall be allowed to continue, subject to the requirements set forth in this section.

2. General Requirements

A. 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.

B. Repair and Maintenance

This Ordinance allows, without a permit pursuant to this Ordinance, the normal upkeep and maintenance of non-conforming uses and structures.

3. Non-Conforming Structures

A. Expansion

A non-conforming structure may be added to or expanded after obtaining a building permit from the Planning Board, if such addition or expansion does not increase the non-conformity of the structure.

B. 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 or other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the *State of Maine Subsurface Wastewater Disposal Rules* or that a new system can be installed in compliance with the law and said *Rules*. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on the size of the lot, the location of other structures on the property, and the location of the septic system and any wells that may be impacted.

C. Reconstruction or Replacement

A non-conforming structure may be replaced or rebuilt within one year from the date of removal or destruction of the original structure. The new structure may also be non-conforming, but it shall not be any more non-conforming than the original structure.

4. Non-Conforming Uses

A. Expansions

Non-conforming uses that legally existed as of April 1, 1995 may expand in the same location, subject to all applicable standards of this Ordinance.

B. 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.

C. Change of Use

An existing non-conforming use may be changed to another non-conforming use provided that the Planning Board finds that the proposed use is equally or more appropriate to the location than the existing non-conforming use, and that the proposed use will have no greater adverse impact on adjacent properties than the former use.

The determination of appropriateness shall be based on the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards of this Ordinance shall apply to such requests to establish new non-conforming uses.

5. Non-Conforming Lots

A non-conforming lot of record as of April 1, 1995 may be built upon, provided that applicable performance standards and the requirements of the *State of Maine Subsurface Wastewater Disposal Rules* are met. The use of the lot must be one that is allowed in the district(s) in which it is located.

6. Non-Conforming Signs

Non-conforming signs in existence on April 1, 2003 may be repaired, but may not be enlarged, raised in height, or otherwise modified in ways that are not allowed for new signs.

Section IV. Definition of Districts

1. Overview of District Delineations

A. Introduction

There are two baseline land use districts in Unity: the Downtown District and the Rural District. All land in town is either in one or the other of these two districts. Beyond that, there are three overlay districts within which land may also fall: the Village District, the Aquifer Protection District, and the Shoreland District. All five districts are delineated on the *Unity Land Use Map* that is incorporated into this Ordinance.

B. Interpretation of District Boundaries

Unless specifically stated otherwise in this Ordinance, district boundary lines are property lines and the centerlines of roads. Boundaries based upon natural features shall be established by field measurement. Should there be a conflict between the Land Use Map and wording of this Ordinance, the wording shall prevail. Should it occur that the Planning Board and an applicant cannot agree on the interpretation of a district boundary, the Board of Appeals shall be the final authority as to location.

2. Baseline Districts

A. Downtown District

The Downtown District encompasses those portions of downtown which are already developed and contiguous areas that could be developed. The district's borders coincide, roughly, with the land area that could be served by the Unity Utilities District.

The Downtown District comprises the polygon of land bounded by the following delineations as represented on Unity's tax maps, listed clockwise: northern boundary of parcels with frontage on Route 220 from Bangor Road to Back Troy Road (Map 11, Lots 44 & 45, Map 12, Lots 30, 31-1, 30-2, 31 & 32), west down the middle of the Back Troy Road back to Route 220, south down the middle of Route 220 to the southern boundaries of Map 12, Lots 13, 14 & 16 to Sandy Stream; along Sandy Stream to the northeast boundary of Map 11, Lots 60-2 & 60-3, and the northwest and northeast

boundaries of Map 11, Lot 61 to Quaker Hill Road; west down Quaker Hill Road to the eastern boundary of Map 11, Lot 59 (Unity College), moving clockwise along this boundary until it meets Bacon Brook; moving downstream along Bacon Brook until it intersects with the CMP transmission line right-of-way (ROW); through the center of the CMP transmission line ROW across the Albion Road through Map 11, Lot 1 to the west boundary of Lot 1 to Sandy Stream; along Sandy Stream, crossing School Street to the southwest boundary of Map 11, Lot 35; following the Lot 35 lot line counter-clockwise to the western boundary of Lot 36, across Kanokolus Road and the railroad tracks to include Map 11, Lot 37 to Unity Pond; along Unity Pond to the northern border of Map 11, Lot 41 (Athletic Complex) to the Bangor Road; north on the Bangor Road to the northern boundary of Map 11, Lot 44.

B. Rural District

The Rural District comprises all of Unity that is outside of the Downtown District.

3. Overlay Districts

A. Village District

The Village District comprises the older village center of the Downtown District. It consists of properties with frontage on:

a) Depot Street from Main Street to the fire station and north boundary of Map 11, Lot 16 (the Bagley property);
b) Main Street from the railroad tracks to Sandy Stream;
c) Murdock Lane;
d) Vickery Lane;
e) Wood Lane;
f) Kanokolus Beach Road (FR#1) to the cemetery; and
g) Milmac Road.

B. Aquifer Protection District

The Aquifer Protection District comprises the area of land overlying the sand and gravel aquifer associated with Sandy Stream, as shown on the Land Use Map.

A. Shoreland District

The Shoreland District comprises the area of land identified in the *Unity Shoreland Zoning Ordinance* and shown on the Land Use Map.

B. Retail Growth District

The Retail Growth District shall encompass all lots bordering School Street, from Main Street to the bridge over Sandy Stream.

Section V. Dimensional Requirements

1. Lot Requirements

A. Purpose

This provision is designed to encourage creativity and diversity in development design. In the Downtown District served by public sewer, small lots are allowed. In the Rural District, lots may also be made relatively small, as long as they are interspersed with larger lots to meet the requirements for average lot size. There is no specific road frontage requirement, but rather, more flexible requirements concerning lot access and lot shape.

B. Applicability

These standards apply to all new lots created after April 1, 1995.

C. Basic Lot Size Requirements

1) Downtown District

The minimum size for new lots served by sewer is 10,000 square feet.
NOTE: Residential subdivisions involving lots of this size must set aside additional land for open space, as outlined in Section X.5.B.

The minimum size for other new lots is 20,000 square feet. The applicant must show that a proposed lot--regardless of size— is provided with adequate subsurface wastewater treatment. Such treatment can be provided on the lot or potentially off the lot, if connected to an approved shared use system.

2) Rural District

New lots created by dividing a larger parcel must meet requirements both for minimum lot size and for average lot size. The average size of all created lots shall be at least 120,000 square feet, except in some instances where properties are located in the shoreland zone, as described in C(3) below

The minimum size for any single lot is 20,000 square feet. The applicant must show that a proposed lot--regardless of size-- is provided with adequate subsurface wastewater treatment. Such treatment can be provided on the lot or potentially off the lot, if connected to an approved shared use system.

When lots are created, their deeds shall state which portion of their land area is undevelopable under existing ordinance because it is tied up in satisfying average lot size requirements. A certified copy of this deed language shall be provided to the Planning Board within 90 days of approval of a lot permit, and no building permit may be issued for this lot until such documentation is provided.

3) Shoreland Zone

Portions of both the Downtown District and Rural District are also located in the shoreland zone. Unity's Shoreland Zoning Ordinance contains additional lot requirements, which must also be followed.

For the purposes of calculating average lot size, a shorefront lot located in the Rural District can be divided into two lots, provided that the resulting average size of the two lots is at least 80,000 square feet and that all other lot requirements of the Shoreland Zoning Ordinance are met. Each additional lot after the second will require an additional 120,000 square feet, on average.

D. Further Lot Size Requirements (by district)

The basic lot size requirements allow the placement on each lot of only one principal structure (as defined), which if residential, may contain only two dwelling units (as defined). The placement of additional principal structures and/or more than two dwelling units requires larger lots.

1) Downtown District

When all the principal structures on the lot are served by sewer, each principal structure beyond the first requires an additional 10,000 square feet. When any principal structure on the lot is served by subsurface wastewater treatment, each principal structure beyond the first requires an additional 20,000 square feet. For all downtown lots, every dwelling unit beyond the second requires an additional 2,500 square feet. (EXAMPLE: A 4 unit apartment building connected to the sewer must be on a lot of 15,000 square feet.)

2) Rural District

Each principal structure beyond the first requires an additional 40,000 square feet. Each dwelling unit beyond the second requires an additional 10,000 square feet.

E. Lot Access

In order to ensure that remote lots may be serviced by roads or utilities in the future, any new lot that is not located along a public road or a private road built to standards (outlined in Section VI), must have a minimum 50 foot right-of-way of deeded access to a public road or a private road built to standards. This right-of-way may be shared by multiple lots. It shall be suitable for installing utilities and for constructing a driveway (if it serves three or fewer lots) or a private road (if it serves more than three lots).

F. Lot Shape

In order to prevent the creation of long narrow lots that often restrict access to and the productivity of contiguous back land, no newly created lot shall have a ratio of length to width of greater than 5:1. The Planning Board may waive this requirement if the applicant offers a satisfactory plan for back

land access and management.

2. Road Access Management

A. Purpose

This provision outlines a road access requirement as an alternative to a road frontage requirement.

B. Applicability

These requirements apply to all access points onto public roads in the Rural District that are created by new roads or driveways. (NOTE: A circular driveway is considered one access point).

C. Access Point Frontage Requirements

Any new access point (constructed after April 1, 1995) located along a public road in the Rural District must be an average of 200' from any other access point. An access point may be closer than 200' to the next access point as long as the average standard is maintained. Thus, 3 access points may be located along 600' of road frontage, 5 access points along 1000' of road frontage, etc. Averages incorporating land under separate ownership must place a deed restriction on the other land to guarantee that the average will not be exceeded.

D. Access Point Dimensions

Each new driveway or parking lot entrance--at the point where it connects to a public road--shall not exceed 11' in width if one-way or 22' in width if two-way (excluding the flare that occurs at the actual point of intersection). The provision does not apply to driveways for: a) fire stations; b) ambulance companies; or c) commercial businesses located in the Rural District.

The flare that occurs when a new road or driveway intersects with an existing public road shall be based on a curb radius of between 5' and 15', which is sufficient to allow safe turning of trucks and emergency vehicles while keeping speeds low and minimizing pedestrian hazards. The Planning Board may allow larger curb radii in select instances, but only where: a) the new intersection results from a driveway or road that primarily serves a commercial facility that will generate substantial truck traffic; and b) special measures are taken to ensure pedestrian comfort and safety. In no instance may the Planning Board allow larger curb radii within the Village District.

3. Structural Requirements

A. Applicability

These requirements apply to all new structures constructed after April 1, 1995.

B. Building Height

The roof ridge of buildings shall be no higher than 35' above grade. Buildings may contain steeples,

cupolas, or other ornaments that exceed this height. Buildings higher than 30' shall be designed to facilitate access to roofs for fire-fighting purposes.

New structures are limited to two stories of livable space above grade, unless specific, written approval is granted by the Fire Chief. The Chief shall base this decision upon the Fire Department's ability to evacuate people safely from upper stories of the structure.

C. Building Setbacks from Front Property Line

1) Rural District

Structures must be set back at least 50' from the road centerline or 15' from the edge of the road right-of-way (i.e., the front property line), whichever is further back.

2) Downtown District

a) General Requirement

In general, structures must be set back at least 50' from the road centerline or 15' from the edge of the road right-of-way (i.e., front property line), whichever is further back.

b) Special Exception

Wherever existing structures are located closer to the road right-of-way than 15', new structures on adjoining lots may be located as close to the road right-of-way as those existing structures.

D. Building Setbacks from Side and Rear Property Lines

1) Basic Dimensional Standard

In order to minimize the chance that a building fire will spread to another building, structures under separate ownership shall maintain a 30' separation distance. To meet this objective, all permanent structures shall be placed at least 15' from side and rear property lines.

2) Performance Standard Option

The use of certain construction materials or the installation of fire extinguishing systems, such as sprinkler systems, may substitute for the side and rear setback requirement. A structure may be located closer than 15' to the side or rear boundary upon approval of the Fire Chief. In the Downtown District, the Planning Board may also approve two owners sharing a single wall, if approved by the Fire Chief and acceptable to both property owners.

Any use of this performance standard option will require a current survey of the property lines or a recorded boundary line agreement between the two property owners. .

4. Agricultural Protection Setback

A. Purpose

These setback requirements are designed to help protect owners of commercial farmland from encroaching development, and to help prevent conflicts between commercial agriculture and other land uses.

B. Applicable Farmland

In the Rural District, these setback requirements apply to all commercial farmland (as defined), regardless of size, used in whole or in part for crop production, either currently, or at any time within the past three years. In the Downtown, this provision applies to all commercial farmland (as defined), of at least 10 acres, used in whole or in part for crop production, either currently, or at any time within the past three years.

C. Property Covered

These setback requirements apply to all property that is located within 300' of applicable farmland (as described in paragraph B above) in the Rural District and within 150' of applicable farmland in the Downtown District, unless that property is owned by the owner of the applicable farmland.

Lots created after April 1, 1995 that are adjacent to applicable farmland shall be designed so that the setback requirements listed below may be met. The Planning Board shall not issue a lot permit for any lot intended for new development that is so small that these setback requirements could not be met.

Lots created after April 1, 1995 that are not adjacent to applicable farmland at the time of creation, are exempt from the setback requirements listed below. The owner of such a lot is not obligated to follow these setback requirements, regardless of the future use of adjacent land.

Lots existing as of April 1, 1995 that are adjacent to applicable farmland but are too small to allow the setback requirements listed below to be met, shall be exempt from these requirements.

Lots existing as of April 1, 1995 that are adjacent to applicable farmland and are large enough to allow the setback requirements listed below to be met, are obligated to meet these requirements.

The Planning Board shall determine whether a lot that existed as of April 1, 1995 is too small or large enough for the setback requirements to be met, based on the practical sites for locating a principal structure and a well on that lot.

D. Setback Requirements

Water wells supplying drinking water to dwellings may not be located within 300' of applicable farmland in the Rural District or within 150' of applicable farmland in the Downtown District.

Principal structures (as defined) may not be located within 100' of applicable farmland in the Rural District or within 50' of applicable farmland in the Downtown District.

These requirements do not prevent replacement of an existing structure or well.

E. Inapplicability to some property.

These setback requirements do not apply to property owned by the owner of the applicable farmland.

F. Appeals

An aggrieved party may appeal these requirements in accordance with the procedures of the *Board of Appeals Ordinance for the Town of Unity.*

Section VI. Farmland Protection Incentive Measure

1. Purpose

This measure is intended to alleviate some development pressures on productive farmland, by providing an incentive to locate development on other land.

2. Applicability

This measure applies to "productive farmland" located in the Rural District. Productive farmland is defined as land which has historically been used for commercial crop production, or that meets the definition of either prime, unique, or significant farmland soils as defined by the Soil Conservation Service. Land supporting commercial orchards and Christmas trees is considered productive farmland, while that supporting other trees is not, unless it meets one of the soil definitions outlined above.

3. Specific Measure

A parcel may be divided into more building lots than otherwise possible, if structures are placed off productive farmland and a portion of farmland is preserved. Depending on the configuration of such a parcel, a landowner may actually be able to create twice as many lots.

Where the landowner meets two conditions, the average size of new lots can be reduced to 60,000 square feet (sf). (Individual lots may be made as small as 20,000 sf, as long as the average size of lots is no smaller than 60,000 sf.) The first condition is that any lot created at a higher density (than one lot per 120,000 sf) cannot either locate structures or impervious surfaces on productive farmland, or otherwise diminish the land's potential for cultivation. The second condition is that for every lot created at the higher density, at least 40,000 sf of productive farmland must be preserved. This preserved land may be contained within the new lot, or within any other lot within the Town.

4. **Administration**

All applicants for a building permit or development permit who seek this "density bonus" shall request this as part of their application. They shall provide: a) a map of the property clearly showing the proposed lot lines and the delineation between productive farmland and other land, if applicable; and b) a written statement specifying the productive farmland that will be preserved as open land.

The Planning Board shall grant the requested permit with the requested density bonus if the application satisfies: a) the requirements outlined herein; and b) all other applicable requirements of Unity's Land Use Ordinance. Final approval shall be conditional on the placement of formal deed restrictions on the requisite amount of productive farmland.

5. **Preserved Open Land**

Open land shall be preserved through deed restrictions. Any such restriction may only be removed by a vote of the town at the annual Town Meeting.

Preserved open land may be divided into separate ownership, and sold or otherwise transferred as each owner sees fit. The land may be fenced, or used to locate temporary, agricultural structures--such as calf hutches--that do not reduce the land's potential for cultivation. But the land may not be used for structures or impervious surfaces, or other activities that would diminish the land's potential for cultivation, including removal of topsoil.

Section VII. Special Performance Standards

1. **Parking Areas**

A. Parking Requirement

All buildings or building additions constructed after April 1, 1995 must provide parking to accommodate all anticipated need. Generally, this need will be met through the construction of new off-street parking areas. However, for commercial buildings in the Downtown District, some of this need may be met through on-street parking, where such parking will not create traffic or visability problems, as determined by the Planning Board.

All buildings being converted or expanded into multi-family dwellings after April 1, 1996 shall provide off-street parking to accommodate all anticipated need.

B. Landscaping Requirement (Downtown District only)

In the Downtown District, larger-sized off-street parking areas constructed after April 1, 1996 that are clearly visible from a public road shall be landscaped to reduce visual impact. All parking areas designed to accommodate more than 10 vehicles shall provide a minimum 6' landscaped buffer

between the parking area and the road right-of-way. All parking areas designed to accommodate more than 20 vehicles shall also provide landscaped islands or peninsulas within the parking area so that a minimum of 5% of the area's interior is landscaped.

C. Screening Requirement (Village District only)

In the Village District, off-street parking areas built after April 1, 1995 shall not detract from the existing residential character of the neighborhood. To meet this objective, any new parking area designed to accommodate more than three vehicles shall be located behind a building or otherwise screened from clear view. Parking spaces designated for elderly or handicapped people are exempt from this requirement.

2. Commercial Signs

A sign permit must be obtained to erect any commercial sign that is either larger than 10 square feet or illuminated. A sign permit may be issued by the Code Enforcement Officer, as outlined in Section II.

A property owner shall conform to the following standards for commercial signs whether or not a sign permit is required:

A. No sign may contain blinking or flashing lights.
B. An internally lit sign may only be lit while the business is open.
C. No sign erected after April 1, 2003 may be internally lit.
D. Any sign erected after April 1, 2003 that is located in the Rural District may only be lit while the business is open.
E. Any sign erected after April 1, 2003 that is illuminated must utilize low glare lighting that is directed downward.
F. No sign may be placed in a way that creates a hazard to pedestrian or vehicular traffic.
G. A sign's height may not exceed the height of the building it advertises.
H. A business classified as a "home occupation" (as defined) may not erect a sign larger than 10 square feet (i.e., 4' x 2.5' or 5' x 2 or any other combination that equals 10 sf) without being reclassified as a "home-based enterprise" (as defined).
I. No more than two free-standing signs may be placed on each lot, unless the development is a large one that triggered "development review" and through that process the Planning Board agreed to allow additional signs.
J. Signs also need to meet any additional requirements that may be imposed by the Planning Board through the "development review" process that is required for large developments.

These standards also apply to any exterior vending machine that is clearly visible from a public road. These standards do not apply to temporary signs (as defined) or seasonal decorations.

These standards do <u>not</u> prevent the repair of non-conforming signs that existing prior to April 1, 2003, provided that the repair does not increase non-conformity.

3. Retail Activity in the Rural District

A business or other entity located in the Rural District may only engage in retail activity involving sales of goods or services if one of the following conditions exist:

A. the activity occurs at a home-based business; or

B. the activity primarily involves the sale of goods that are either grown, made, or substantially altered on the premises, or of services related to those goods; or

c) the activity is not expected to attract more than 20 car trips of retail customers per day; or

d) the activity occurs less frequently than 15 days in a given year; or

e) the business is primarily engaged in the sale or repair of motor vehicles or other motorized equipment such as lawn mowers or chainsaws.

Applicability: These standards apply to all enterprises that are new to a particular site or expansions of existing enterprises that would trigger development review (Section X). Thus, these standards do **not** apply to existing enterprises already doing business at a site, including expansions of those businesses that are not large enough to trigger development review.

4. Retail Activity in the Downtown District

All new businesses (except home-based businesses) located in the Downtown District that are engaged in retail activity involving sales of goods or services shall be located either in the Village District or the Retail Growth District. The Retail Growth District shall encompass all lots bordering School Street, from Main Street to the bridge over Sandy Stream.

A. Special Requirements for Village District

Any new building or building addition constructed within the Village District for non-residential use may not exceed a building footprint of 2,000 square feet, except that the Planning Board may approve footprints of up to 4,000 square feet where the site has been creatively designed and laid out in manner that does not detract from the historic, small town character of the Village District.

No commercial activities occurring in the Village District may create noise, light, glare, odor, smoke or dust that either exceed average residential levels or in any way detract from the small town character of the Village District, as determined by the Planning Board.

6. Special Requirements for Large Commercial Complexes

All commercial complexes located in the Downtown District that involve more than 10,000 square feet of indoor space must be located and designed to minimize vehicular traffic and to enhance downtown convenience and walkability, through the following measures:

A. New sidewalks, both within the complex and connecting the complex to existing Downtown sidewalks and nearby business activities;
B. The use of "shared used" parking areas, both within the complex and in conjunction with nearby businesses, wherever possible, in an effort to limit pavement and encourage "one-stop" shopping;
C. Extensive landscaping designed to break-up parking areas and to make pedestrian routes attractive;
D. "Human-scale" lighting, with light poles never exceeding 20' in height, and perhaps less in certain settings, as determined by the Planning Board;
E. Adequate provision for bicycle movement and parking;
F. Conformity with any community plans approved by Town Meeting that involve bike routes, a van service, or other alternative transportation strategies.

These requirements do not apply to existing commercial complexes unless those complexes are expanded, and the expansion involves more than 2,000 square feet of indoor space and the total amount of indoor space after the expansion will exceed 10,000 square feet.

7. Commercial Impacts throughout Town

No commercial activity except farming, logging, or mineral extraction (such as operating a gravel pit) may create noise, light, glare, odor, smoke or dust that–as observed at the property line—exceed common background levels for such nuisances, as determined by the Planning Board. This requirement does not pertain to impacts that occur during construction or that occur on a temporary basis.

Any business engaged in the repair of motor vehicles that did not previously exist in Unity as of April 1, 2003, or that moves to a new location within Unity after that date, shall store all inoperative vehicles, machinery, parts, or products either within a building or within an enclosed area concealed from public view from adjacent properties by an opaque screen (involving landscaping, fencing, structures, or some combination).

8. Lighting

All exterior non-residential lighting erected after April 1, 2003, must be low glare lighting directed downward, where the direct light being emitted does not either fall directly on abutting property or create a safety hazard on a roadway.

In the Rural District, the following additional standards apply, if the lighting involves either: 1) commercial activities that are new to a location after April 1, 2003; or 2) expansions occurring after April 1, 2003:
A. Commercial activities may not illuminate exterior displays of products.
B. Commercial parking areas may only be illuminated when the business is open.
C. At a commercial facility, the total intensity of lighting that is visibly from a public road or abutting property may not exceed levels customarily associated with residences, as determined by the Planning Board.

Nothing in this section applies to lighting that was already in place as of April 1, 2003. Nor does it in any way prevent the use of exterior lighting in emergencies or as holiday decorations.

9. Driveways and Roads

A. Permit Required

A permit must be obtained before construction on a new road or driveway may be begun, as outlined in Section II of this Ordinance.

B. Locational Restrictions

Driveways and roads must comply with the Road Access Management guidelines outlined in Section V of this Ordinance.

C. Construction Standards - Driveways

NOTE: A driveway may serve up to 3 principal structures and/or lots before being considered a road.

A new driveway that is over 150' in length and that serves a year-round residence requires one of the following: a) a 12' travel way, 12" gravel base, and a suitable place for a firetruck to turn around; or b) a signed statement from the Fire Chief stating that the proposed driveway appears adequate for emergency vehicle access. Any new driveway that is shorter than 150' or that doesn't serve year-round residences is exempt from this requirement.

D. Construction Standards - Roads

A new private road must have a 50' right-of-way, an 18" gravel base, a 12' travel way, 2' shoulders, and adequate culverts. Any road which may be offered for acceptance to the community must meet the standards of Unity's *Street Construction Ordinance*.

10. Mobile Home Parks

A. Applicability

These performance standards apply to all mobile home parks established in Unity after April 1, 1995, as well as to expansions of mobile home parks existing on that date. They shall be applied in addition to the Development Review standards applied to all subdivisions. If there is a conflict, the most restrictive legally enforceable provision shall apply.

B. Performance Standards

1) Lot Size, Width and Density

Lots in a mobile home park shall meet the following lot size, width and density requirements.

a) Lots served by public sewer:

Minimum lot size = 6,500 square feet
Minimum lot width = 50 feet

b) Lots served by individual subsurface sewage disposal system:

Minimum lot area = 20,000 square feet
Minimum lot width = 100 feet

c) Lots served by a central subsurface wastewater disposal system:

Minimum lot area = 12,000 square feet
Minimum lot width = 75 feet

d) Lots within the Shoreland District shall meet the lot area, lot width, setback, and shore frontage requirements outlined in Unity's *Shoreland Zoning Ordinance.*

2) Setbacks

a) Mobile homes and accessory structures shall be placed at least 15 feet back from the edge of the park road right-of-way and from adjacent lot lines.

b) Mobile homes in a mobile home park but adjacent to a public road shall be set back from the public road a distance equal to the setback requirement for other structures in the district.

3) Road Standards

Private roads within a mobile home park must have a right-of-way of at least 23' and be adequately maintained by the park owner or operator. Any road within a mobile home park which may be offered for acceptance to the community must meet the standards of Unity's *Street Construction Ordinance.*

4) Parking Requirements

For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. Each parking space shall contain a minimum area of 200 square feet with minimum dimensions of 10 feet by 20 feet.

5) 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.

6) Buffer Strip

A buffer strip shall be provided within 25 feet of all property lines whenever the density of dwelling units within the park is at least twice the density of units allowed by this Ordinance on abutting property. Within the buffer strip, visual screening shall be provided. Whenever possible, this screening shall consist of landscaping with native vegetation. It shall block from view at least 80% of the mobile home park and shall be maintained as long as the park is operated.

7) Conversion of Park

No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the district in which it is located.

11. Requirements for Small and Intermediate Wind Turbines

A. Purpose

This section provides rules to govern the development of small and intermediate wind turbines. For rules governing the development of larger wind turbines, see Unity's "Wind Turbine Generator Ordinance".

B. Applicability

This section applies to all wind turbines that: 1) are shorter than 150 feet above surface grade (measured with a blade at its highest arc); and 2) have a manufacturer's nameplate capacity of less than 100 kW. Turbines of this size are classified as either Type 1 (Small) or Type 2 (Intermediate) under Unity's Wind Turbine Generator Ordinance. That Ordinance does not apply to Type 1 and Type 2 turbines, but only to larger turbines (Type 3 and Type 4).

C. Specific Requirements

Wind turbines shall be set back from the property line a distance that is at least 110% of the height of the structure, measured vertically from the tip of the blade at its highest arc to the surface of the ground at the base of the structure.

The minimum distance between the ground and any turbine blade (measured at its lowest arc) shall be 25 feet.

Wind turbines shall be sited so that no obtrusive shadow flicker occurs off the applicant's property. Shadow flicker is defined as alternating changes in light intensity caused by the motion of turbine blades casting shadows.

Wind turbines shall be a non-obtrusive color such as white, off-white, or grey.

Wind turbines shall not display any signs or advertising other than the manufacturer's nameplate.

Wind turbines shall not be artificially lit, except if required by state or federal law.

Wind turbines shall comply with all state or federal requirements. NOTE: Under current state law, no wind turbines are allowed within the shoreland zone.

D. Special Application Procedures

All abutting property owners shall be notified by the applicant of his/her intent to submit an application for a wind turbine.

All applicants for a wind turbine under this Ordinance shall submit a standard building permit application and follow the procedures for that, except that the application shall contain an addendum that includes: 1) an accurate, detailed site plan showing the proposed location of the structure, the boundaries of the applicant's property, and the distances from the structure to all property lines; 2) a copy of a standard USGS topographic map clearly showing the proposed location of the structure and the boundaries of the applicant's property in relation to abutting properties; and 3) a list of all abutting property owners and a description of how the applicant notified them.

Section VIII. Downtown Design Guidelines

1. Purpose

These Guidelines are intended to help preserve and enhance the "traditional character" of downtown Unity, by assuring that new downtown development is compatible with that character.

The traditional character of downtown Unity is more the result of the basic design and placement of buildings than specific architectural styles. Some of the features that define that character include pitched roofs, vertically-oriented windows, and pleasing scale and proportions. Such features are evident in most of Unity's buildings constructed before 1950, and in many constructed thereafter.

These Guidelines stress general design features rather than specific architectural styles. A newly constructed building must follow certain standards for roof pitch and windows, but need not follow a particular style. An existing building may be renovated in keeping with its existing style, or in any way that is allowed for new construction. The goal is to preserve and enhance downtown Unity's special character, but in a way that allows flexibility and encourages diversity.

2. Applicability

These Guidelines only apply to certain construction activities within the Downtown District (for example, all renovations to existing single-family homes are exempt), and only to design features that are "clearly visible" from the public road.

DEFINITION: A "clearly visible" feature is one that an average person passing down a road would

notice. For instance, a small feature on the side of a building that is only visible from one place on the roadway is not "clearly visible." In almost all cases, the back side of buildings is not affected; in many other cases (where landscaping or neighboring buildings shield public view), the sides and even the front of buildings may not be affected. (See "Visual Screening Alternative" described later.)

Applicable activities include:

A. the construction of any new building downtown, except certain single- family homes as exempted below;
B. any exterior renovation made to a downtown commercial building built, sold, or leased (to a new tenant) after April 1, 1995;
C. any exterior renovation made to a downtown multi-family residence built or sold after April 1, 1995;
D. any exterior renovation made to a downtown single-family home for the purpose of converting it into a commercial building or multi-family residence;
E. any addition made to a downtown commercial building or multi-family residence, or to a single family home for the purpose of converting it into a commercial building or multi-family residence.

Thus, the following activities are exempt: 1) renovations or additions made to any existing single-family home as long as it remains a single-family home; 2) renovations made to any existing multi-family residence as long as it remains under existing ownership; and 3) renovations made to any existing commercial building as long as it remains under existing ownership or tenancy.

In addition, new single-family homes constructed on lots that existed as of April 1, 1995 are exempt, as long as the lot remains in the same ownership as it was on April 1, 1995.

3. Specific Provisions

Unless following the "Visual Screening Alternative" (described later), all applicable construction activities shall follow specific guidelines for: A) basic design (scale, proportion, and size); B) key exterior features (roofs, windows, dormers, porches, and siding); and C) building placement (elevation, setback, and orientation).

A) Basic Design

Any new commercial building or multi-family residence shall be constructed so that its scale and proportions are compatible with the traditional character of downtown Unity. This means that large buildings with a single, visible wall-face of 40 (or more) linear feet must follow one of two strategies: 1) "breaking up" the building visually (through use of juts, changes in roof lines, etc.) to give the appearance of smaller components; or 2) constructing the building in a traditional style for large buildings (Examples: a traditional barn, Unity Hardware Store).

Existing buildings may be renovated and/or expanded either in ways that are similar to their existing styling, or in ways that would be allowed for new construction. Where an existing building is expanded in a way that would not be allowed for new construction, the volume of the addition may not exceed the volume of the existing structure by more than 30%.

B) Key Exterior Features

The visible portions of the roofs of new buildings shall follow one of many traditional styles, including gable, hip, and gambrel. Gable roofs shall be pitched at a minimum of 8:12, unless it meets one of the exemptions described later. Hipped roofs shall be pitched at a minimum of 5:12. (Pitch standards do not apply to the roofs of porches, or small building additions or projections, as long as such roofs are compatible with the building's overall roof design.) The Planning Board may, at its discretion, allow: 1) gable roofs to be pitched as low as 7:12 on larger buildings, if a higher pitch would, in the opinion of the Planning Board, create a height problem; or 2) gable roofs to be pitched as low as 6:12 on traditionally-styled buildings that have two full stories above-ground before the roof begins.

Porches, dormers, or other building projections clearly visible from the street shall be compatible with the architectural character of the building. Any exterior stairway shall be designed and/or placed so that the impact on the building's overall lines are minimized.

The clearly visible windows and doors of all new buildings shall be placed in a traditional pattern. In particular, clearly visible windows shall have a vertical orientation, the result of using either traditional, narrow windows (roughly 2 times higher than they are wide) or wider windows that retain a vertical orientation through the use of mullions or other architectural devices. Building renovations that involve window or door replacement shall either use components similar to what existed before, or components that are allowed for new buildings.

The building exterior clearly visible from the street should be compatible with the traditional character of downtown Unity. Clapboard (including vinyl, concrete, and aluminum siding), shingles, or traditional brick are examples of compatible sidings. Brash or fluorescent exterior colors are not allowed.

C) Building Placement

A new building's foundation elevation (above grade), its setback (from the road), and its orientation (toward the road) shall be compatible with neighboring structures that are located on the same road and within 200' of the new building.

4. Special Design Review Committee

The Planning Board shall create a Design Review Committee to help review proposed designs on all new commercial and institutional buildings that trigger both Downtown Design Guidelines and Development Review. This Committee shall consist of three members. At least one member shall be a Unity resident. At least two members shall have professional design experience. This Committee shall be provided copies of plans of proposed buildings and landscaping, and given an opportunity to provide feedback on these plans to the Planning Board before any permit is issues. The Committee's input will be advisory to the Planning Board. Those Committee members who live outside out town may, at the Planning Board's discretion, be compensated an amount not to exceed $50 per application, paid for by the applicant.

5. **Visual Screening Alternative**

Construction activities need not comply with the "Specific Provisions" if the resulting structure is located at least 200 feet from the road right of way and is screened from view (from the street) through appropriate landscaping. Such landscaping shall consist of trees or shrubs that effectively and attractively screen at least 80% of the building from view throughout the year. This means that screening must include either adequate conifers and/or very dense buffers of deciduous trees. The owner of a property that was issued a building permit conditional on this visual screening alternative will be considered in violation of this ordinance if the requirement of screening at least 80% of the building from view throughout the year is not accomplished within 5 years of construction.

Administration & Appeals

Where these Guidelines are applicable, an applicant for a building permit shall seek either: 1) design approval (complying with the "Specific Provisions"); or 2) landscaping approval (complying with the "Visual Screening Alternative"). The building permit application shall provide sufficient detail to allow the Planning Board to assess adequately, either the proposed design or landscaping plan. (This would include building elevation drawings for all new structures or major renovations.)

Where the Planning Board finds that either a design or landscaping plan does not satisfy the intent of these Guidelines, it shall deny approval and explain to the applicant in writing the reasons for doing so. Where appropriate, the Planning Board shall suggest to the applicant ways the design or landscaping plan may be modified to satisfy the Guidelines. The applicant may resubmit a modified building permit application without an additional fee.

Appeals may be made in accordance with the procedures outlined in the *Board of Appeals Ordinance for the Town of Unity.*

Section IX. Aquifer Protection Standards

1. Purpose

   This section is designed to ensure that new land use activities conducted over: 1) the sand and gravel aquifer associated with Sandy Stream; or 2) the bedrock aquifer underlying the downtown area, together with its direct run-on recharge area, do not harm these valuable sources of groundwater.

2. Applicability

   The Aquifer Protection District shall include the following areas of land:

   a) land overlying the sand and gravel aquifer associated with Sandy Stream. This land area is identified on the Land Use Map. District boundaries were derived from the Maine Geological Survey (Open file report 87-24C, Plate 2 of 3, Map 30). If an applicant wishes to challenge the district boundary, he/she shall present hydrogeologic evidence to support the claim. The

evidence shall be prepared by a geologist, certified to practice in the State of Maine.

b) land within the Downtown District; and

c) land within the "Run-on Recharge Area" serving downtown as shown on the map entitled "Plate 1-Overburden Data" prepared by Cashwell, Eichler and Hill, Inc., as part of the Downtown Unity Water Resources Evaluation completed in October 1995, or as transferred onto the Land Use Map and so noted.

3. Conditional Uses

All proposed land uses in the Aquifer Protection District shall comply with the requirements of this section.

4. Approval Procedure

A) All Applicants

All applicants for a building permit or a development permit who propose activities in the Aquifer Protection District which have the potential to contaminate groundwater as determined by the Planning Board shall include as part of their applications descriptions of: a) their intended use of ground water; b) the potential sources of ground water contamination from any of their proposed land use activities; and c) their proposed means of preventing any potential contamination.

B) Additional Requirements of High Water Uses in Downtown District

1) Applicability

Applicants proposing wells fitting any of the following three conditions must demonstrate no adverse impact will occur to any existing well as a result of the proposed operation. Adverse impact shall be defined as an unreasonable lowering of the operating level and/or a decrease in the ability of the well to provide potable water.

a) All applicants whose proposed activity will pump a new or existing well in the Downtown District at a long-term average rate of 2 gallons per minute (GPM) or more. *(Note: 2 GPM equates to a use servicing up to 60 people at 48 gallons per day per person, or 2880 gallons per day.)*

b) All applicants whose proposed activity will pump a new or existing well in the Downtown District at a long-term average rate of 1 GPM or more, if there is an existing well within 200 radial feet of the proposal well. *(Note: 1 GPM equates to a use servicing up to 30 people at 48 gallons per day per person, or 1440 gallons per day.)*

c) Any new or existing well that is considered to be a Public Water System by State

definition.

2) Requirement

A developer who falls into any of the above three conditions must engage a qualified Professional Engineer or Maine Certified Geologist to demonstrate that no adverse impacts will occur as a result of pumping the proposed well. In most cases the proposed well will have to be pump tested for a 24 to 48 hour period. Water level measurements must be taken in the pumping well and in at least one observation well, and in all existing wells within 500 radial feel of the pumping well (assuming each well owner grants permission to open the well and make depth to water measurements periodically during the pumping period). The consultant will analyze the pumping test data using standard hydraulic techniques in order to define the anticipated drawdown in the pumping, observation, and neighboring wells. Any known potential source of groundwater contamination within a 500-foot radius of the pumping well must be identified and the possibility of contamination migration under the proposed new pumping regime evaluated. A report must be prepared for Planning Board review. It is the responsibility of the developer to demonstrate the lack of adverse impact. Remedies to offset or abate any predicted adverse impacts may be offered by the consultant for Town review and possible approval.

C) Conditions for Approval

The Planning Board shall grant the requested permit if the application satisfies: a) the performance standards of this section; and b) all other applicable requirements of this Ordinance.

5. Performance Standards

1) Provision shall be made to protect against discharge or loss of toxic or hazardous materials resulting from corrosion, accidental damage, spillage, or vandalism. These provisions shall include: spill control measures at hazardous material delivery, storage and transfer points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or leachable materials. Handling and storage of toxic and hazardous materials shall meet performance standards established by the Maine Department of Environmental Protection.

2) For uses that involve significant volumes of liquid chemicals, all activities shall be conducted under cover and over an impermeable surface. Use of dikes, liners, or other effective techniques will be required to enable collection of any spill that might occur. All materials will be handled and stored in properly covered and secured containers and disposed of according to all applicable federal and state regulations.

3) Proposed activities shall not negatively impact the quality or quantity of the groundwater.

4) Proposed "high-use" wells located within the Downtown District shall demonstrate that no adverse impact shall occur to any existing well as a result of the proposed well's operation.

(NOTE: A "high-use" well is any well that will pump a long-term average rate of 1 GPM if located within 200 radial feet of other wells or 2 GPM regardless of location.)

5) All new wells of any intended pumping rate located in the Downtown District shall be located at least 85 radial feet from neighboring wells, unless a Maine certified geologist can demonstrate to the Planning board's satisfaction that due to relative depth or other factors, there is no scientific likelihood of well interference posed by the proposed well.

Section X. Development Review

1. Purpose

Development Review provides the Planning Board with the opportunity to closely examine subdivisions and high impact developments. Such developments must meet the special standards of this section.

2. Applicability

Development review is required for any development that:

1) qualifies as a subdivision of land and/or structure under State law;

2) qualifies as a "high impact" activity by meeting any of the following criteria:

   a) is estimated to generate over 100 car and/or 20 heavy truck trips per day;
   b) involves one or more structures with a combined gross floor area of over 20,000 square feet;
   c) involves the installation of any combination of pavement, buildings, or other impervious surfaces that together cover more than 20,000 square feet.
   d) is likely to create any noise, odor, glare, vibration, smoke, dust, electrical disturbance, activity at unreasonable hours, or other nuisance that would disturb persons on neighboring properties if not adequately designed and/or buffered;
   e) is expected to draw more than 2000 gallons of groundwater per day for uses other than agriculture; or
   f) involves the construction or expansion of a mobile home park, campground, or fairground
   g) involves the construction or expansion of a commercial telecommunications facility involving a tower higher than 100 feet above ground level.

Development review is also required for any expansion of a development that would meet the definition of a high impact activity if built new, wherever that expansion is expected to involve any of the following:

A. An increase of over 50 car and/or 10 heavy truck trips per day;
B. An increase of more than 1,000 square feet of building space, unless the increase involves an agricultural facility such as a barn or greenhouse being built in the Rural District
C. Construction of a new parking area;
D. An expected increase in any noise, odor, glare, vibration, smoke, dust, activity at unreasonable

hours, or other nuisance that would disturb persons on neighboring properties if not adequately designed and/or buffered, unless the impact is the result of commercial farming.

3. Classification of Projects

Projects subject to development review shall be divided into two classes, TYPE 1 and TYPE 2.

TYPE 1 developments shall include: a) projects involving the construction or addition of less than 20,000 square feet of gross nonresidential floor area; b) projects involving the installation of less than 20,000 square feet of impervious surfaces; and c) projects involving the creation of less than five lots and/or dwelling units.

TYPE 2 developments shall include: a) projects involving the construction or addition of 20,000 or more square feet of gross nonresidential floor area; b) projects involving the installation of 20,000 or more square feet of impervious surfaces; c) projects involving the creation of five or more lots and/or dwelling units; d) projects involving the establishment or expansion of a mobile home park, campground, or fairground; e) projects involving the non-agricultural use of more than 2000 gallons of groundwater per day; and f) other projects requiring review which are not classified as TYPE 1.

If the applicant is uncertain as to the classification of the project, he/she may request a determination from the Planning Board.

4. Application Procedure

A. Application Process

The process involves the following steps:

1) attend an initial meeting, where application submission requirements are reviewed;
2) submit a development review application in two stages (a Preliminary Plan Stage and a Final Plan Stage).

B. Initial Meeting

Applicants shall schedule an initial meeting with the Planning Board, prior to a formal submission of a development review application. The Board and the applicant will discuss the proposed project and review the various submission requirements.

The Planning Board may at this meeting waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project.

The Planning Board shall restrict its submission requirements to those that are relevant to determining the project's compliance with the provisions of this Ordinance. The granting of a waiver of a submission requirement does not, however, prevent the Board from requesting the information at a later stage of development review, if the Board finds that the information is, in

fact, relevant to the proposed project.

C. Development Review Application

A development review application is required for both TYPE 1 and TYPE 2 developments. The applicant shall prepare this application in accordance with APPENDIX 1, and file it with the Town Clerk.

The development review application shall be reviewed in two stages: a Preliminary Plan stage and a Final Plan stage.

1) Preliminary Plan Stage

The Planning Board shall review any development review application received at least 10 days before its next meeting at that meeting. The applicant or his/her agent shall attend this meeting.

At this meeting, the Planning Board shall determine that the application is either complete or incomplete (and thus requires that additional information be supplied). If the Board finds the submission incomplete, it shall outline for the applicant whatever portions of the submission it finds lacking, and why. A revised application submitted at least 10 days before the next Planning Board meeting shall be reviewed at that meeting.

If the Board finds the submission complete, it shall decide within 60 days of making this finding, whether to approve or disapprove the Preliminary Plan. It shall base its decision upon the standards listed later in this section. If the Planning Board votes to approve the Preliminary Plan (either with or without conditions), the applicant is authorized to submit a Final Plan. However, approval of the Preliminary Plan shall not constitute either approval of the Final Plan or an intent to approve the Final Plan. If the Planning Board votes to disapprove the Preliminary Plan, the applicant shall be notified in writing and the specific causes of disapproval shall be noted.

A public hearing may be held during this Preliminary Plan stage. A hearing for TYPE 2 projects will be held automatically, whereas a hearing for TYPE 1 projects will be held at the discretion of the Planning Board. Any public hearing shall be held within 30 days of determining that the application is complete, and shall follow the notification requirements outlined in Section I-9. The applicant may be charged an additional fee to cover advertisement costs.

2) Final Plan Stage

The applicant may submit a Final Plan anytime within six months of the Planning Board's approval of the Preliminary Plan. The Final Plan shall contain the same basic information as the Preliminary Plan, though that information may be modified to more clearly make the case to the Planning Board.

The same timetable shall be followed for the Final Plan stage as was followed for the Preliminary Plan stage regarding determination of a complete application and making a decision on the application. A public hearing may be held at the discretion of the Planning Board.

The Planning Board shall base its decision of whether to approve or disapprove a Final Plan upon the standards listed later in this section. If the Planning Board votes to disapprove the Final Plan, the applicant shall be notified in writing and the specific causes of disapproval shall be noted. If the Planning Board votes to approve the Final Plan, it shall issue a development permit, provided that all other requirements of this Ordinance are met.

The Planning Board may either disapprove an application or delay final action for up to six months if the applicant has within the past five years received Planning Board approval for a building or development where the applicant has not yet met conditions of that approval to the satisfaction of the Board, provided that the Board notifies the applicant in writing of the conditions that it feels have not been satisfied within 7 days of completion of the Preliminary Plan Stage. The Planning Board may interpret the "applicant" to be the same in two applications submitted under different names, if the same person or entity has a major or controlling role in both applications.

D. Professional Review

If needed to ensure an application complies with this Ordinance, the Planning Board may hire a professional of its choice to conduct an independent analysis of any portion of an application. In such instances, the Board shall choose a professional, obtain an estimate for the work, and notify the applicant that the amount of the estimate must be paid to the Town before any further consideration is given to the application. No work will be initiated until the applicant pays the estimated amount to the Town. Following completion of the work, the applicant will be either billed for any cost incurred over the estimate, or refunded any remaining balance.

5. Standards for Approval

The Planning Board shall base its decision for approving a development permit based on requirements found elsewhere in the Ordinance plus the standards outlined below. These standards are not intended to discourage creativity, invention and innovation. The Planning Board may waive certain standards upon a determination they are not applicable to the proposed activity or not necessary to carry out the intent of this Ordinance. Before granting approval for any subdivision, the Board shall find that the applicant also meets the requirements of 30-A MRSA 4404.

A. Preservation of Land. Land shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, retaining existing vegetation where desirable, and keeping any grade changes in character with the general appearance of neighboring areas. Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features shall be maintained and preserved to the extent possible. The Planning Board may require that any structure and any potentially threatening land use be set back 50' from these areas. Natural drainage areas shall also be preserved to the extent possible.

All developments shall be configured to preserve productive farmland (as defined) to the maximum extent practical. New structures and roads may be built on farmland to the extent allowed under other provisions of this Ordinance, but the applicant shall seek creative measures to minimize

development that: 1) occurs on productive farmland; or 2) divides a single field; or 3) otherwise reduces the ease with which a parcel of farmland can be farmed in the future. Such measures may include: 1) interspersing small and large lots to maximize single ownership of a given field; or 2) locating some or all structures in woodland abutting farmland; or 3) utilizing other strategies which the applicant or Planning Board may devise.

All TYPE 2 developments occurring on parcels of land containing 5 or more acres of productive farmland (as defined) shall adhere to the following standards: 1) no more than 15% of the farmland may be used for structures, roads, or other impervious surfaces, with the exception that use is allowed for an agricultural facility (such as a barn or greenhouse, and associated road access); and 2) the remaining farmland shall be retained in a manner that facilitates use for agriculture. The Planning Board may waive these standards if the applicant preserves by permanent deed restriction another parcel of productive farmland located in Unity that is equal or greater in size.

B. Open Space. Any residential development that will contain more than one dwelling unit--on average--for every 20,000 square feet of land area shall set aside additional land as open space for use by the development's residents. This additional land shall be equal or greater in area to 10% of the minimum area required for such a development elsewhere in this Ordinance. (For example: A 4-unit apartment building on a sewered lot would require 15,000 square feet--under Section V.1.D--plus another 1,500 square feet under this 10% provision.) No more than 25% of this land may consist of wetlands, steep slopes, or other land unsuitable for active recreation.

The Planning Board may waive this provision if the development is located within 500' of public open space of suitable size and features, and if that open space is linked to the development by a safe pedestrian route.

C. Access to the Site. Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Pedestrian walkways shall be adequate to provide safe access to the site.

If the proposed development activity is estimated to increase vehicular traffic by 10% or more over existing levels, and if that represents a traffic level for which the existing road is inadequate, then the applicant will be required to upgrade affected roads to meet the additional demand. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or

2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within 1 year of approval of the project.

D. Access into the Site. Vehicular access into the development shall be designed to provide for safe access and to minimize adverse traffic impacts.

1) Any new driveway or road that will intersect with an existing public street shall be designed to provide a minimum sight distance of ten times the posted speed limit in each direction, as measured from the point at which the new driveway or road meets the public street.

2) In subdivisions, the number of new driveways intersecting directly with the existing street shall be minimized. Wherever practical, such driveways shall flow into a new road (or roads) which then intersect with the existing street.

3) Points of intersection shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.

4) The grade of any new road or commercial driveway shall be a maximum of 3% for a distance of 25 feet from its intersection with any existing street. If determined necessary for traffic safety, the Planning Board may require that a moderate grade extend for a greater distance from the intersection.

E. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site. Adequate parking will be provided for all anticipated use of the development. Off-street parking areas shall be designed so vehicles do not need to back out onto a public street.

F. Pedestrian Circulation. If located within the Downtown District, the development plan shall provide for a system of safe pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The developer shall describe a plan for summer and winter maintenance of the pedestrian system.

G. Erosion and sediment control. The site shall be developed in accordance with the following measures:

1) Stripping of vegetation and regrading shall be done in such a way as to minimize erosion.

2) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.

3) Temporary vegetation or mulching shall be used to protect exposed critical areas during development.

4) The permanent (final) vegetation and erosion control measures shall be installed as soon as practical on the site.

5) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped.

6) Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from

all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.

7) Development shall be undertaken in a manner that adequately manages surface water runoff.

8) Any activity on a stream, watercourse or swale or upon a floodway or right-of-way shall comply with the State's Natural Resources Protection Act, Title 38 M.R.S.A. Sections 480A-480S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.

9) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

H. Construction Site Conditions. During construction, the site shall be maintained and left each day in a safe and sanitary manner.

I. Surface Water Drainage. Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five year storm frequency. Emphasis shall be placed on the protection of floodplains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.

J. Groundwater Protection. The proposed development shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems.

K. Fire Protection. All TYPE 2 developments that are not located near adequate sources of water for fire fighting (as determined by the Fire Chief), may be required to install a pond (or other water source) and a dry hydrant. The Planning Board shall make this decision in consultation with the Fire Chief.

L. Drinking Water Supply. The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the minimum standards of the State of Maine for drinking water.

M. Sewage Disposal.

1) In an area served by public sewer, the development shall connect to the Unity Utilities District. The developer may be required to pay an installation fee that covers the Utilities District's costs for providing adequate service to the site.

2) All individual on-site septic systems shall be designed by a licensed soil evaluator in full compliance with the Maine State Plumbing Code, as amended.

N. Exterior Lighting. All exterior lighting shall be designed to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. Strobe or flashing lights of any type are prohibited, unless required by State or federal law for safety (e.g. on radio towers).

O. Odor. The proposed development shall not produce offensive or harmful odors perceptible beyond their lot lines, either at ground or habitable elevation.

P. Noise. The proposed development shall not raise noise levels to the extent that abutting and/or nearby residents are adversely affected.

Q. Landscaping. Landscaping shall be designed and installed to: 1) enhance the physical design of the building(s) and site; 2) to minimize the encroachment of the proposed use on neighboring land uses; and 3) to soften the appearance of off-street parking areas.

R. Relation of Proposed Development to Existing Setting. The developer shall demonstrate that proposed structures and utility installations relate harmoniously to the terrain and to existing buildings in the vicinity.

S. Financial and Technical Capacity. The applicant must have adequate financial and technical capacity to meet these standards.

T. Comprehensive Plan. The proposed activity must be in conformance with the Comprehensive Plan.

U. Additional Standards for Commercial Telecommunications Towers. All commercial telecommunications towers higher than 100 feet in height above ground level shall adhere to the following standards:

1) Setback: A new or expanded tower must be set back 105% of its height from the property boundary. The setback may be satisfied by land outside the property boundary if secured by easement satisfactory to the Planning Board. The setback may be reduced if the applicant demonstrates that the tower is designed to collapse such that neighboring properties would not be affected.
2) Screening: Related equipment and structures must be screened with plants from view of abutting property owners and public roadways. Existing plants and natural land forms on the site shall be preserved to the maximum extent possible.
3) Fencing: The facility must be fenced to discourage trespass.
4) Lighting: The facility must be illuminated only to the extent 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 and designed to minimize impact on abutting property.

5) Materials and Colors: The facility must be constructed with materials and colors that match the surrounding natural environment to the maximum extent practicable.
6) Structural Standards: The applicant must demonstrate to the Planning Board's satisfaction that the facility is structural designed to meet or exceed current industry standards. The structural design must be signed by a qualified professional engineer, registered in the State of Maine.
7) Co-location: The applicant shall demonstrate that co-location on an existing telecommunications tower cannot provide comparable service to the residents of Unity. (It is recognized that a different location will likely result in different service characteristics; the applicant shall not merely indentify these differences, but demonstrate to the satisfaction of the Planning Board that the proposed location will clearly provide better service to the residents of Unity.) The owner of the facility and his/her successors and assigns shall agree to: a) 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; b) negotiate in good faith for shared use of the facility by third parties; c) allow shared use of the facility with any party that agrees in writing to pay reasonable charges for co-location; and d) require no more than a reasonable charge for shared use of the facility, based on Maine market rates and generally accepted accounting principles.
8) Frequency Emissions: The applicant shall demonstrate how the facility will comply with FCC regulations. During the life of the facility, the owner agrees, upon request of the municipality, to certify compliance with all applicable FCC radio frequency emissions regulations in a manner understandable to the average citizen.
9) Abandonment: A facility shall be considered abandoned if it is not operated for a continuous period of 12 months at any point after all municipal permits are issued. (If a facility was permitted before March 31, 2009, and is not operating as of that date, it shall be considered abandoned if it is not operating by March 31, 2010 The CEO shall notify the owner of an abandoned facility in writing and order removal of the facility within 90 days of the receipt of the written notice. The owner of the facility shall have 30 days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned. If the owner fails to show that the facility is in active operation, the owner shall have 60 days to remove the facility. If the facility is not removed within this time period, the municipality may 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 removal of roads and reestablishment of vegetation. The Planning Board may require the applicant to post a surety bond to cover eventual facility removal in case of abandonment.

6. Appeals

If the Planning Board disapproves an application or grants approval with conditions that are objectionable to the applicant or to any abutting landowner or any aggrieved party, who can demonstrate a direct negative impact, or when it is claimed that the provisions of this section do not apply, or that the true intent and meaning of the Ordinance has been misconstrued or wrongfully interpreted, the applicant, an abutting landowner, or other aggrieved party may appeal the decision to the Board of Appeals.

Section XI. Definitions

1. Construction of Language

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. Where any uncertainty arises, the Board of Appeals shall be the final authority.

The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.

The words "shall," "will" and "must" are mandatory; the word "may" is permissive.

The word "lot" includes the word "parcel".

The word "structure" includes the word "building".

The words "Town" or "municipality" mean the Town of Unity, Maine.

The term "municipal officers" means the Unity Board of Selectmen.

2. Definition of Terms

In this Ordinance the following terms shall have the following meanings:

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

Access (or accessway) - legal right-of-way connecting a parcel of land with a road.

Access point - junction of a vehicular accessway and the public or private road accessed.

Accessory apartment - a secondary dwelling unit attached to a single-family residence that may be occupied by a family member or tenant of the owner-occupants of the main dwelling unit.

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

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products. Agriculture does not include forest management and timber harvesting activities.

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.

Back land - any lot or parcel of land that does not have frontage on a public or private road.

Building - same as structure.

Commercial farmland - any piece of land used to grow crops or livestock, in a way that directly contributes at least $300 per acre in market value.

Commercial use - the use of lands, buildings, or structures, other than a "home occupation" (as 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.

Dimensional requirements - numerical standards relating to spatial relationships including but not limited to setback, lot area, shore frontage, driveway separation and building height.

District - a specified portion of the municipality, delineated on the *Unity Land Use Map*, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway - a vehicular accessway serving one principal structure or lot. This term may also collectively include "shared driveways", which serve 2 or 3 principal structures or lots. They are treated the same for regulatory purposes.

Dwelling - any building or structure or portion thereof designed or used for residential purposes.

Dwelling unit - A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Expansion of a structure - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to attached decks, garages, porches and greenhouses.

Expansion of use - the addition of months to a use's operating season; or the use of more floor area or ground area devoted to a particular use.

High-impact activity - a land use activity that has any of the characteristics outlined in Section VIII.

Home-based enterprise - any enterprise located on the same parcel as the residence of the owner of a business with no more than six full-time (or equivalent) non-resident employees and utilizing no more than 20,000 square feet.

Home occupation - a home-based enterprise in which: a) the business activity is conducted completely within the dwelling unit or structure accessory thereto (e.g. home, garage), and b) the principal use of the property remains residential.

Impervious surface - one that does not absorb moisture, including but not limited to rooftops and paved areas.

Industrial use - the assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

Lot - an area of land in one ownership, or one leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

Lot area - 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 width - the distance between the side boundaries of the lot measured at the front setback line.

Low-impact activity - a land use activity that is conducted in such a manner that no noise, odor, vibration, smoke, dust, electrical disturbance, glare, activity at unreasonable hours, or other nuisance shall be detectable at the property line.

Manufactured housing or mobile home unit - a structure, transportable in one or two sections, which was constructed in a manufacturing facility and is transported to a building site and designed to be used as a dwelling when connected to the required utilities.

Mobile home park - a parcel of land under unified ownership approved by the Town for the placement of 3 or more manufactured homes.

Multi-family dwelling - a building containing 3 or more dwelling units, such buildings being designed exclusively for residential use and occupancy by 3 or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

New parking area - any parking area constructed after the effective date of this Ordinance, or any modification to an existing parking area that will use 500 square feet or more of land than was previously not utilized for either parking or vehicular access.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not permitted 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.

Parcel - same as lot

Parking area - any off-street area used for the parking of vehicles that is not a driveway. The principal function of a parking area is to park vehicles, whereas the principal function of a driveway is to provide a vehicular accessway. Driveways are often used to park vehicles, but rarely do they allow several vehicles to arrive and depart freely, without the need to move other vehicles. *(Note: See also definition of "new parking areas.")*

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.

Principal structure - a building that serves a primary function on a parcel. For example, houses and office buildings are usually principal structures, while garages, barns and sheds are accessory structures.

Principal use - any use which is not incidental or accessory.

Private road or roadway - a privately-owned road, neither open to nor maintained by the Town or general public.

Productive farmland - land that has historically been used for commercial crop production, or that meets the definition of either prime, unique or significant farmland soils as defined by the Soil Conservation Service. Pastureland varies widely in nature and will be evaluated on a case-by-case basis as to its viable agricultural value. Land supporting orchards and Christmas trees is considered productive farmland, while that supporting other trees is not, unless it meets one of the soil definitions outlined above.

Public road or roadway - any roadway which is owned, leased, or otherwise operated by a governmental body or public entity.

Right-of-way - all public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

Road - any public or private way designed for vehicular access, other than driveways, shared driveways, farm roads, trails or logging roads. The term "road" includes the normal meaning conveyed by synonymous words including street, avenue, highway, and way.

Seasonal use - one that takes place no more than seven months of the year.

Setback - the minimum horizontal distance from the lot boundary to the nearest part of a building, including porches, steps and railings.

Shore frontage - the length of a lot bordering on a water body measured in a straight line between the intersections of the lot lines with the shoreline at normal high-water elevation.

Shared driveway - a vehicular accessway serving two or three dwelling units, lots or structures.

Sign - any structure, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. In does not include the flag, pennant or insignia of any nation, state or town. A 2-sided sign is considered one sign for purposes of this Ordinance. *(Note: See also definition of "temporary sign.")*

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, exclusive of fences.

Subdivision - the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. Lots of 40 acres or greater in size are considered lots within this definition and come under municipal review.

Substantial start - completion of 20 percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system - a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

Temporary sign - a non-illuminated sign displayed for 15 days or less in any 30 day period.

Variance - a relaxation of the terms of this Ordinance where such relaxation will not be contrary to the public interest where, owing to conditions peculiar to the property, and not the result of the actions of the applicants, and where a literal enforcement of the Ordinance would result in undue hardship.

Vegetation - all live trees, shrubs, ground cover, and other plants.

APPENDIX 1

Development Review Application
Content Requirements

A. Requirements for both TYPE 1 and TYPE 2 Developments

All development review applications shall contain:

1) A signed copy of the application cover sheet available from the Town Clerk provided as the cover page to the written report.

2) Nine copies of a written report containing sufficient detail so that a reviewer can gain a comprehensive understanding of the proposed development. This means that the report shall include copies of the most important maps and drawings.

3) At least two full-size copies of all maps and drawings.

Each development review application shall contain the following information, less those specific items waived by the Board as outlined in Section VIII-4:

1) General Information

   a) the name of the proposed development, if any;

   b) name and address of owner(s) of record, and of applicant if different;

   c) if the applicant is not an owner of the property, written certification signed by the owner(s) that the applicant is their duly authorized agent;

   d) names and addresses of all property owners within 500 feet of the edge of the property line;

   e) number of acres contained in the parcel;

   f) boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time;

   g) the tax map and lot number of the parcel or parcels;

   h) a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the owner;

i) the name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan;

2) Existing Conditions

a) district classification(s) of the property and the location of district boundaries if the property is located in 2 or more land-use districts or abuts a different district;

b) the bearings and distances of all property lines of the property to be developed and the source of this information;

c) location and size of any existing sewer and water mains, culverts and drains on the property to be developed, and of any that will serve the development from abutting streets or land (If any neighboring land currently relies on the property for drainage, this shall be clearly noted.);

d) location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development;

e) the location, dimensions and ground floor elevations of all existing buildings on the site;

f) the location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site;

g) location of intersecting roads or driveways within 200 feet of the site;

h) the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained;

i) the location of areas within or adjacent to the development that contain high value wildlife habitat as mapped by the Maine Department of Inland Fisheries and Wildlife and/or contained in the Unity Comprehensive Plan;

j) general boundaries and description of vegetative cover, with trees of over 18" in diameter at breast height indicated if within 100' of the proposed development activity;

k) the direction of existing surface water drainage across the site;

l) location of flood hazard area, if applicable;

m) the location and approximate depth of any wells on the property and within 500 feet of each property line that may be used for domestic water supply;

n) the location and dimensions of existing signs;

o) location and dimensions of any existing easements and copies of existing covenants or deed restrictions; and

p) location, dimensions and description of any portion of the land including in or abutting the proposed development that is currently used for commercial agriculture, including the name of the farmer utilizing the land.

3) Proposed Development Activity

a) the location of all building setbacks and buffers required by this Ordinance;

b) the location, dimensions, and ground floor elevations (i.e., the base height of the first floor above grade) of all proposed buildings on the site;

c) elevation drawings of all proposed buildings;

d) the location and dimensions of proposed driveways, parking and loading areas, and walkways;

e) distance from neighboring driveways if accessing public road;

f) the location and dimensions of all provisions for water supply and wastewater disposal, including location of snow storage and removal, if applicable;

g) the direction of proposed surface water drainage across the site;

h) location and dimensions of proposed signs;

i) location and type of exterior lighting;

j) proposed landscaping and buffering, and indication of where clearing of existing vegetation will take place;

k) location and description of any open space and/or public dedication to be made, including ownership of and plans for ongoing maintenance of the property.

l) copies of applicable State approvals and permits, provided however, that the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.

m) a schedule of construction, including anticipated beginning and completion dates.

B. Additional Requirements for TYPE 2 Developments

Each TYPE 2 development review application shall contain the following information, less those specific items waived by the Board as outlined in Section VIII-4:

1) The following pre-existing conditions:

a)the topography of the site at an appropriate contour interval (2 foot to 10 foot) depending on the nature of the use and character of the site;

b) major natural features of the site including wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats or other important natural features;

c) existing restrictions or easements on the site;

d) the location and size of existing utilities or improvements servicing the site;

e) general soils information identifying prime farmland soils and soils with poor septic suitability; and

f) existing or previous agricultural usage of the property and abutting properties.

2) Proposed topography of the site at an appropriate contour interval.

3) A storm water drainage and erosion control program showing:

a)the existing and proposed method of handling storm water run-offs;

b) the direction of flow of the run-off through the use of arrows;

c) the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers;

d) engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed; and

e) methods of controlling erosion and sedimentation during and after construction.

4) If the development is a high user of water (i.e., over 2000 gallons per day), or is located on a sensitive site, or is otherwise felt to pose a potential source of disruption to existing water supply and/or flowage, a groundwater impact analysis prepared by a qualified professional engineer or geologist, certified to practice in the State of Maine. Impact on existing wells within 500 radial feet of the proposed new water usage shall be evaluated as outlined in Section IX **Aquifer Protection Standards.**

5) A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.

6) A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees,

shrubs, and other plants to be planted on the site.

7) An estimate of the amount and type of vehicular traffic, at peak hour and average daily levels.

8) An analysis of the anticipated need for parking created by the development when fully occupied.

9) If involving over 40 parking spaces or estimating over 400 vehicle trips per day, a traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets, together with any recommended street improvements.

10) The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.

11) Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.

12) The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he/she will maintain such streets or ways year-round until such time as the Town may accept them as public ways.

13) A plan to provide adequate water to the site for fire protection, using either existing sources or new sources.

14) A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.

15) Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.

16) If the development is a condominium with commonly held property, evidence that all requirements relative to establishment of a homeowners' association or condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this Ordinance pertaining to clustered development have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintaining common spaces and lands. Homeowners' associations or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.

17) Cost of the proposed development and evidence of financial capacity to complete it.

C. Additional Submittal Requirements for Telecommunications Towers and Facilities

1) A copy of the FCC license for the facility or a signed statement from the owner or operator attesting that the facility complies with FCC regulations.
2) A site plan prepared by a qualified Professional Engineer registered in Maine indicating the location, type, and height of the facility proposed to be built or expanded, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks, and all applicable American National Standards Institute (ANSI) technical and structural codes.
3) Certification that the proposed facility will comply with all FCC radio emission standards.
4) A scenic assessment including elevation drawings of the proposed facility and a landscaping plan.
5) A written description of how the proposed facility fits into the applicant's telecommunications network.
6) Evidence demonstrating that no existing site or structure can accommodate the applicant's proposed facility, due to insufficient location, height, structural capacity, access, or affordability.
7) A signed statement that the owner of the facility and his/her successors or assigns agree to the standards and requirements outlined in Section X of this Ordinance concerning co-location.

Lock Box Ordinance
for the
Town of Unity

Adopted: March 29, 2008

The following statement(s) shall be an ordinance implemented by the Unity Volunteer Fire Department. This Ordinance requires commercial and industrial buildings or structures to install a lock box system. This system will allow the Unity Fire Department to enter a structure upon an emergency call.

A. The following described buildings or structures shall be equipped with a key lock box in a location approved by the Fire Chief or his/her designee:

- Commercial or industrial buildings or structures protected by an automatic suppression system and/or automatic fire alarm system when such buildings or structures are secured in a manner that restricts access during an emergency
- Municipal and governmental buildings or structures equipped with an automatic suppression system and/or automatic fire alarm system
- Multi-family residential buildings or structures having four (4) or more units that have restricted access through locked doors and have a common corridor for access to the living units
- Any other building or structure deemed appropriate as determined by the Fire Chief

1. Existing Buildings and Structures: All municipal and governmental buildings or structures or commercial or industrial buildings or structures subject to this ordinance and existing on the date of the enactment of this ordinance shall install and make operational a key lock box system within TWELVE (12) MONTHS of the effective date of this ordinance.

All multi-family residential buildings or structures subject to this ordinance shall install and make operational a key lock box system on a schedule to be prescribed by the Fire Chief.

Upon the change in occupancy classification of any building or structure as determined by the Fire Chief or his/her designee and as classified by N.F.P.A. 101 Life Safety Code in effect at the time of said change, said building or structure shall install and make operational a key lock box system, provided that said building or structure is equipped with a sprinkler or alarm system or a sprinkler or alarm system is installed.

2. New Construction and Renovation of Existing Building and Structures: All buildings and structures subject to Section A. of this ordinance which are being newly constructed or which are being renovated with interior renovation costs of $50,000.00 or more shall install and make operational a key lock box system. No newly constructed buildings or structures subject to the requirements of this ordinance shall be issued a Certificate of Occupancy unless it shall have a key lock box system installed and operational. Multi-family residential buildings or structures, regardless of the number of units, that have restricted access through a locked door and have a common corridor for access to the living units, which are being newly constructed or which are being renovated with interior renovation costs of $50,000.00 or more shall install and make operational a key lock box system. A Certificate of Occupancy will not be issued for such a building or structure unless it shall have a key lock box system installed and operational.

3. Owner Requirement: The owner of any building or structure subject to the requirements of this ordinance shall be responsible for the installation and maintenance of a key lock box system and shall, at all times, keep keys in the key lock box that will allow access to the following:

- The building or structure
- Mechanical equipment room(s)
- Electrical room(s)
- Elevator controls
- Fire sprinkler control room(s) and fire alarm control panel rooms
- Any other areas deemed appropriate as determined by the Fire Chief or his/her designee

In addition, the owner of any building or structure subject to the requirements of this ordinance shall keep in the key lock box special keys to reset pull stations or other fire protection devices.

4. Use and Type of Key Lock Box System: The Fire Chief may promulgate from time to time rules and regulations which are reasonably required for the installation and operation of a key lock box system. The Fire Chief may promulgate rules and regulations to designate the type of key lock box system.

5. Exceptions: Any building or structure that has on the premises a twenty-four (24) hour a day, seven (7) days a week security service or personnel who have on their person access keys as required by Section A (3) of this ordinance, shall be exempt from the requirements of this ordinance.

6. Penalties: Whoever violates the provisions of this ordinance shall be subject to a fine of $100.00 for each offense. Each day a violation exists shall be considered a separate offense.

MINIMUM STREET REQUIREMENTS

Article I. Statement of Purpose

The purpose of this Ordinance is to promote the health, safety, and public welfare of the residents of Unity by the means of establishing minimum standards for streets which may be accepted as town ways.

Article II Authority, Administration and Effective Date

Section 1. This Ordinance is enacted pursuant to Title 30, M.R.S.A., Section 1917 Ordinance, Power Limited and Section 2151, Police Power Ordinances.

Section 2. This Ordinance shall be administered by the Selectmen who shall consult with the Planning Board and Road Commissioner.

Section 3. The effective date of this Ordinance is March 25, 1990.

Article III Applicability

Section 1. This Ordinance shall apply to all streets within the Town accepted as town ways after the effective date of this Ordinance.

Section 2. Alterations, widening and improvements of town ways shall be consistent with Article V. General Requirements for all Street Construction of this Ordinance. Where the alterations, widening or improvements of town ways cannot be completed in accordance with this Ordinance, the Selectmen shall specify in writing the nature of the relaxation in standards.

Section 3. Nothing in this Ordinance shall be construed to prevent the design and construction of streets which meet higher standards, use improved methods or higher quality materials. The determination of the acceptability of other standards, methods or materials shall be made by the Board of Selectmen, with advice of the Planning Board and Town Road Commissioner.

Article IV. Applications

Prior to the construction of any new street or the reconstruction or lengthening of an existing street, an application shall be submitted to the Board of Selectmen. Persons (other than applicants for subdivision approval) petitioning for the laying out of a town way or dedicating a street in fee to the Town for acceptance as a town way shall submit the following information in the application.

Section 1. Submission Requirements

a. The name(s) of the applicant(s).

b. The name(s) of the owner(s) of record of the land upon which the proposed town way is located.

c. A statement of any legal encumbrances on the land upon which the proposed town way is located.

d. The anticipated starting and completion dates of each major phase of street construction.

e. A plan profile and typical cross-section views of all proposed streets.

Section 2. Plans

The plans and illustrations submitted as part of the application shall be prepared by a Registered Land Surveyor or Professional Engineer to include the following information.

a. The scale of the plan. (All streets and roadway plan and profile drawings shall be drawn to a scale 1" = 20' - 50' horizontal and 1" = 5" -10" vertical.)

b. The direction of magnetic north.

c. The starting and ending point with relation to established roads, streets or ways any planned or anticipated future extensions of the streets proposed for acceptance. (All terminal points and the centerline alignment shall be identified by survey stationing.)

d. The roadway and roadway limits with relation to existing buildings and established landmarks.

e. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for locating subdivisions, lots, easements and building lines.

f. The lots as laid out and numbered on said street, showing the names of all owners of abutting property.

g. All natural waterways and watercourses in or on land contiguous to the said streets or ways.

h. The kind, size, location, profile and cross-section of all existing and proposed drainage ways and structures and their relationship to existing natural waterways.

i. A soil erosion and sedimentation control plan showing interim and final control provisions.

j. Curve data for all horizontal and vertical curves shall be the center line radius, arc length, beginning of curve and end of curve points.

k. All centerline gradients shall be shown and expressed as a percent.

l. All curve and property line radii of intersections.

m. The limits and location of any proposed sidewalks and curbing.

n. The location of all existing and proposed overhead and underground utilities, to include but not be limited to the following: (Note: When a location, in the case of any underground utility, is an approximate, it shall be noted on the plan as such.)

1. Public water supply lines;

2. Sanitary sewer lines;

3. Storm drains;

4. Telephone line poles or underground vaults;

5. Electrical power line poles or underground vaults;

6. Fire hydrants;

7. Street lights; and

8. Gas lines.

o. The name(s) of each proposed new road or street.

Section 3. Subdivision Applications

Subdivisions, as defined by 30 M.R.S.A., Section 4956, which contain proposed streets shall submit to the Planning Board as an integral part of the plot plan all information concerning proposed street required in Article IV, Sections 1 and 2.

Section 4. Application Review

The Board of Selectmen shall, after receipt of complete application, notify the Planning Board and road commissioner requesting their review and written comments. The Planning Board, after receipt of a complete application for subdivision approval that includes a proposed street(s), shall notify the Board of Selectmen and Road Commissioner requesting their review and written comments. The Board of Selectmen shall take action on all applicants for street approval within 45 days of the receipt of a complete application.

Section 5. Public Acceptance of Streets

The approval by the Board of Selectmen of a proposed street shall not be deemed to constitute or be evidence of any acceptance by the Municipality of the street. Final acceptance of a proposed street shall be by an affirmative vote of Town Meeting.

Article V. <u>General Requirements for all Street Construction</u>

Section 1. Existing streets shall be extended at the same or greater width, and in no case shall they be extended at less than the original width.

Section 2. Street names shall require the approval of the Board of Selectmen. Streets that are obviously in alignment with streets already existing and named, shall be given the name of the existing street. Names of new streets shall not duplicate or closely approximate those of existing streets.

Section 3. All street intersections shall be at angles as close as ninety (90) degrees as possible. In no instances shall street intersections be at an angle less than sixty (60) degrees.

Section 4. The curb line radius at street intersections shall be at least 25 feet. Where the angle of the street intersects is less than ninety (90) degrees, a longer radius may be required.

Section 5. Except where topographic or other conditions make a greater length unavoidable, cul-de-sacs, or dead-end streets shall not be greater in length than 800 feet. They shall be provided at the closed end with a turn-around, having a property line diameter of at least 100 feet and a traveled way radius of at least 35 feet. (Note: An optional T-shaped turn-around may also be permitted.) The use of a T-shaped turn-around will be permitted as an alternative. In the latter case, the turn-around shall be at least 24 feet wide, 40 feet long and shall be located between 50 and 100 feet from the end of the street. All dimensions cited for the T-shaped turn-around are for the traveled way.

Section 6. Minimum and maximum street grades shall be as follows:

a. Major streets - Minimum 0.5%; maximum 5.0%

b. Collector Streets - Minimum 0.5%; maximum 8.0%

c. Local Streets - Minimum 0.5%; maximum 12.0%

Section 7. All streets shall have a minimum road crown of one-fourth inch per foot (1/4" per 1').

Section 8. Drainage. Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrains, and/or storm water drainage systems. Provisions must be made for natural water courses.

a. Catch-basins (of standard design) shall be built where necessary and culverts of proper size and capacity (at least 15 inches in diameter) will be installed at all water courses with necessary headers.

b. Culverts will be tarred, galvinized, corrugated steel, concrete or aluminum.

c. Slopes and ditches shall slope away from the shoulders of the road at a ratio of at least four (4) horizontal feet to one (1) foot vertical and never steeper than 2 to 1. In cases where this is not possible or practical as where the roadway cuts through the side of a hill, all cuts shall be made so that adjacent slopes will not slide. The tops and sides of all cuts shall be cleared of all trees, stumps and boulders for an adequate distance so as to prevent such material from sliding into the ditches. Banks will be loamed, seeded and mulched.

Section 9. All streets shall be rough graded to the the full width of the travel way and the shoulders

Section 10. Paving

a. Major & Collection Streets

All major and collection streets shall be paved with a minimum of 2 1/2 inches of hot bituminous pavement. Placement of pavement shall conform with Sections 403.1 - 403.03 of the State of Maine, State Highway Commission, Standard Specifications, Highway and Bridges, Revisions of June 1968.

b. Local Streets

Where local streets are required to be paved, the following procedure shall be followed.

1. The roadway surface shall be primed with a Cut-Back Asphalt MC 250 or its equivalent at the rate of 0.5 gal./sq. yd. and allowed to penetrate a reasonable time.

2. The prime coat shall be sanded evenly with a cover coat of clean sharp sand, free of dirt or clay and other vegetation with no stone larger than one-half inch.

3. The prime coat shall be allowed to cure for a period of 24 to 48 hours.

4. The prime coat shall then be sealed by applying MC 250 Cut-Back Asphalt, or its equivalent at the rate of .35 gal./sq. yd. and sanded with blotter sand in sufficient quantities to allow the traveling public to use the roadway surface.

5. This blotter sand shall be clean and free of dirt, clay or any vegetation with no stones larger than one-half inch.

Section 11. Graveled Surface Streets Certain local streets may be accepted as town ways with gravel surfaces. The Selectmen, with advice from the Road Commissioner and Planning Board, shall review requests for gravel surfaced roads. In reviewing requests for gravel surfaced roads, the following requirements shall be met, in addition to all other design standards.

a. Existing or projected traffic volumes shall not exceed 50 vehicles per day.

b. The area has a low development density.

c. Dust from the road surface will not adversely effect adjacent properties.

d. The surface materials must support the traffic loads without detrimental deformation.

e. The surface materials must be capable of withstanding the abrasive action of traffic.

f. The surface materials shall shed rain which falls on the surface.

g. The surface material shall possess capillary properties in amounts sufficient to replace the moisture lost by surface evaporation.

Section 12. Sidewalks. The Board of Selectmen shall have the authority to designate whether sidewalks shall be required.

Section 13. Utilities. Longitudinal runs of water and/or sewer mains shall be laid outside of the travel lanes and clear of any present or designated sidewalks. Utility poles shall be so placed that any present or designated sidewalks may be contained within the boundaries of the street or way without obstructions by poles or appurtenances.

Section 14. Minimum Design & Construction Standard

	Item	Arterial	Collector	Local
1.	Minimum Width of Right-of-Way	80'	60'	50'
2.	Minimum Width of Pavement	44'	24'	20'
3.	Minimum Grade	.5%	.5%	.5%
4.	Maximum Grade	5%	8%	12%
5.	Maximum Grade at Intersections	3% within 50' of intersections		
6.	Minimum Angle of Intersections	90°	60°	60°
7.	Width of Shoulders	9'	8'	8'
8.	Minimum Center-Line Radii on Curves	800'	200'	200'
9.	Minimum Tangent Length Between Reverse Curves	300'	200'	100'
10.	Road Base (minimum)	24"	18"	15"
	Sub-Base	18"	12"	8"
	Upper-Base	6"	6"	6"
11.	Paving	2 1/2"[1]	2 1/2"[1]	1"[2]
12.	Road Crown (minimum)	1/4"/1'	1/4"/1'	1/4"/1'
13.	Sidewalks (where required)	8"	4"	4"
14.	Dead-End Street (width)			50'
	Length, Not more than			800'
	Radii of Turn-Around at End			100'
15.	Property Line Radii (intersections)	26'	15'	10'
16.	Curb Radii at Intersections (90 degrees)	25'	25'	25'
	Less than 90° degrees intersections	30'	30'	30'
17.	Minimum Distance between Intersections	400'	200'	200'

NOTES; 1 Bituminous hot top 2 Liquid asphalt

Article Vi. Inspections

The Road Commissioner or other agent of the Board of Selectmen shall make periodic inspections of streets during construction to ensure that it is in conformance with this Ordinance. He shall make interim reports to the Board of Selectmen or the Planning Board on construction progress when requested.

The Road Commissioner shall make a final inspection upon completion of construction and shall submit a written report to the Board of Selectmen prior to Town Meeting action on acceptance of the proposed street.

Article VII. Variances and Waivers

Section 1. Where the Board of Selectmen finds the extraordinary and unnecessary hardships may result from the strict compliance with these standards or where there are special circumstances of a particular application, it may vary these standards so that substantial justice may be done and the public interest secure.

Section 2. In granting variances and modifications, the Board of Selectmen shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

Article VIII. Separability

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Article IV. Appeals

An appeal maybe taken within 30 days from the Board of Selectmen's decision on the application, by any party to Superior Court in accordance with Rule 80B. of the Maine Rules of Civil Procedure.

Article X. Amendments

This Ordinance may be amended by a majority vote of Town Meeting. Amendments may be initiated by a majority vote of the Board of Selectmen or by request of the Planning Board to the Selectmen or on petition of 10% of the votes cast in the last gubernatorial election in the town. The Board of Selectmen shall conduct a public hearing on any proposed amendment.

Article XI. 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:

Major Streets: These are streets that carry "through traffic" from community to community, or to and from major traffic generators within a community.

Collector Streets: These are streets which carry traffic to and from the major streets to the local access streets. This street also provides access to business, commercial and industrial areas.

Local Streets: These are streets which provide access to residential properties where through traffic is undesired.

Residential Dwelling Standards

A All newly constructed dwelling units and residential dwellings shall meet the standards listed in the currently adopted edition if the State of Maine Oil and Solid Fuel Board Laws and Rules (Title 32, MRSA, Chapter 33), the currently adopted edition of the National Fire Protection Association – National Electrical Code (NFPA 70) and the State of Maine Propane and Natural Gas Board Rules and Regulations.

B All mobile homes shall be installed in accordance with the "Manufactured Home Installation Standards" as adopted by the State of Maine Department of Professional Regulation, Manufactured Housing Board.

C The following standards shall apply to all mobile homes that are ten years old or older according to the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Chapter 70, to be located on an individual lot or in a mobile home park within the Town of Unity.

1 Electrical System:

A master electrician licensed in the State of Maine shall inspect and certify that the electrical system is safe, including smoke alarms.

2 Heating and Fuel Burning System:

A person holding a master license issued by the State of Maine Oil and Solid Fuel Examining Board shall certify that the heating system and fuel system meets the standards listed in the currently adopted edition of the Oil and Solid Fuel Board Laws and Rules (Title 32, MSRA, Chapter 33).

TOWN OF UNITY
OBSCENITY ORDINANCE

1. Purpose

The two purposes of this ordinance are (1) to prohibit certain acts of commercial exploitation of human sexuality in commercial or business establishments within the Town of Unity in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases, disturbances of the peace, and good order of the community which may occur when such commercial exploitation is permitted in such places, and (2) to protect the health, safety, welfare, and morals of the community without infringing on protected First Amendment rights.

2. Offenses

A person commits an offense if, knowing its content and character, he/she wholesale promotes or possesses with intent to wholesale promotes any obscene material or obscene device. (See definitions below.)

An offense is punishable by a penalty of not less than $50.00 nor more than $100.00. Each day an offense continues shall be a separate offense. Enforcement shall be the responsibility of the Board of Selectmen or their duly authorized agent.

3. Definitions

As used in this ordinance, the following words shall have the following meanings:
Obscene means material or a performance that the average person, applying contemporary community standards, would find that taken as a whole appeals to the prurient interest in sex; depicts or describes patently offensive representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse, sodomy, and sexual bestiality, or patently offensive representations or descriptions of masturbation, excretory functions, sadism, masochism, lewd exhibition of the genitals, the male or female genitals in a state of sexual stimulation or arousal, covered male genitals in a discernibly turgid state or a device designed and marketed as useful primarily for stimulation of the human genital organs; and taken as a whole, lacks serious literary, artistic, political, or scientific value.

Material means anything tangible that is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound, or in any other manner.

Performance means a play, motion picture, dance, or other exhibition performed before an audience.

Patently Offensive means so offensive on its face as to be intolerable to the average person, applying contemporary community standards.

Prurient interest in sex means a shameful or morbid interest in sex.

Promote means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise, or to offer or agree to do the same.

Wholesale promote means to manufacture, issue, sell, provide, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, or to offer or agree to do the same for purpose of resale.

Obscene device means a device including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs. If any of the depictions or descriptions of sexual conduct described in this section are declared by a court of competent jurisdiction to be unlawfully included herein, this declaration shall not invalidate this section as to other patently offensive sexual conduct included herein.

4. Validity of Severability

If any provision of this article is held to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such holding shall not invalidate or otherwise affect the remaining provisions.

ADULT BUSINESS ORDINANCE

1997

adopted 3/28/1997

SECTION 1. PURPOSE AND AUTHORITY: To prevent the use of or intended use of commercial premises, commercial structures, or parts thereof, by reason of design, from being conducive to the spread of communicable disease found to be of danger to persons frequenting such premises, structures, or parts thereof, and to the public health, safety, and welfare. The health, safety, and welfare of all persons in Unity, Maine must be protected by the establishment of standards for such premises, structures, or parts thereof, to eliminate the possibility of infection of contagious disease. Of specific danger is the sexually transmissible disease of Acquired Immune Deficiency Syndrome, which is currently found to be irreversible and uniformly fatal. The incidence of this disease is found to occur in discernible population groups, and the risk factors for obtaining or spreading the disease are associated with high-risk sexual conduct with multiple partners.

The commercial premises, structures, or parts thereof, which place persons at risk of infection from this disease due to their design or intended use for high-risk sexual conduct, are necessarily subject to regulation and minimal standards for the prevention of the spread of this disease and for the protection of the public health, safety, and welfare.

This ordinance is enacted pursuant to municipal home rule authority, Title 30-AM.R.S.A. Section 3001.

SECTION 2. DESIGN OR USE OF COMMERCIAL PREMISES FOR HIGH-RISK SEXUAL CONDUCT PROHIBITED: No commercial building, structure, premises or subdivision, partition, portion or part thereof or facilities therein, shall be so constructed, used, or operated for the purpose of sexual activities, in which facilities high-risk sexual conduct takes place. No commercial building, structure, premises, or sub-division, partition, or portion shall be designed for or used to promote high-risk sexual conduct

SECTION 3. MINIMUM STANDARDS FOR PREVENTION OF CERTAIN COMMUNICABLE DISEASES IN COMMERCIAL PREMISES: No person shall occupy any commercial building, structure, premises, or portion or part thereof which does not comply with the following requirements:

a) For the prevention of the spread of sexually transmitted disease, no partitions between subdivisions of a room, portion or part of a building, structure or premises may have an aperture which is designed or otherwise constructed to encourage sexual activity between persons on either side of the partition.

b) No booths, stalls, or partitioned portions of a room, or individual rooms, used for the viewing of motion pictures or other forms of entertainment, shall have doors, curtains or portal partitions, but all such booths, stalls, partitioned portions of a room, or individual rooms so used shall have at least one side open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of enter-

tainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the viewing of the motion pictures or other offered entertainment.

c) No physical, verbal, or visual contact or interaction between persons within or in adjacent booths shall be encouraged or permitted.

SECTION 4. DEFINITIONS: The words "booth, stall, partitioned portions of a room or individual rooms" mean such enclosures as are specifically offered to the public or members of that establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure; which shall include, without limitation, such enclosures wherein the entertainment is dispensed for a fee, but a fee is not charged for mere access to the enclosure.

The words "doors, curtains or portal partitions" mean full, complete, nontransparent closure devices through which one cannot see or view the activity taking place within the enclosure.

The words "open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" shall mean either the absence of any "door, curtain or portal partition" or a door or other device which is made of clear, transparent material such as glass, plexiglass, or other such material meeting building code and safety standards, extending from the floor to the top of the door frame, exclusive of the door or device framing itself, so that the activity inside the enclosure may be viewed or seen by persons outside the enclosure.

SECTION 5. ENFORCEMENT AND PENALTIES: This ordinance shall be enforceable by the Code Enforcement Officer or such other official as the municipal officers may designate. Any violation of this ordinance shall be penalized in accordance with Title 30--AM.R.S.A. Section 4452. In the event that this statute is held by a court of competent jurisdiction not to apply to this ordinance, the following penalties shall apply:

The violation of any provision of this ordinance shall be punishable by a fine of one thousand dollars ($1,000.00) for a first offense, one thousand five hundred dollars ($1,500.00) for a second offense, and two thousand dollars ($2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties, the town may enjoin or abate any violation of this ordinance by appropriate action, and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees, and reasonable investigative costs.

SECTION 6. SEVERABILITY: If any section, phrase, sentence, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other portion hereof.

PUBLIC INDECENCY ORDINANCE

1997

SECTION 1. PURPOSE AND AUTHORITY: To prohibit certain acts of commercial exploitation of human sexuality within the Town lines of Unity in order to reduce the likelihood of criminal activity, moral degradation, sexually transmitted diseases, and disturbances of the peace and good order of the community which may occur when such commercial exploitation is permitted in such places, and to protect the health, safety, welfare, and morals of the community by using the government's recognized and traditional enforcement power to protect societal order, morality, and physical and emotional health in public places without infringing on protected First Amendment rights.

This ordinance is enacted pursuant to municipal home rule authority, Title 30-AM.R.S.A. Section 3001.

SECTION 2. DEFINITIONS: For the purposes of this ordinance, the following definitions apply:

SEXUAL INTERCOURSE means any penetration of the female sex organ by the male sex organ. Emission is not required.

SEXUAL ACT means any act of sexual gratification between two persons involving direct physical contact between the sex organs of one and the mouth or anus of the other or direct physical contact between the sex organs of one and the sex organs of the other, or direct physical contact between the sex organs of one and an instrument or device manipulated by the other. A sexual act may be proved without allegations or proof of penetration.

SEXUAL CONTACT means any touching of the genitals, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire.

NUDITY means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

PUBLIC PLACE means a place to which the public at large or a substantial group has access, including but not limited to commercial or business establishments, public ways, schools, government-owned facilities, and the lobbies, hallways, and basement portions of apartment houses, hotels, motels, public buildings, and transportation terminals.

PUBLIC INDECENCY means the knowing or intentional commission of an act of sexual intercourse, a sexual act, sexual contact, or nudity in a public place.

SECTION 3. PUBLIC INDECENCY PROHIBITED: Engaging in public indecency in return for pecuniary benefit is prohibited.

Encouraging or permitting another person to engage in public indecency in return for pecuniary benefit, such as by the owner or operator of the es-

tablishment wherein public indecency occurs, is also prohibited.

SECTION 3. PENALTIES: The violation of any provision of this ordinance shall be punishable by a fine of one thousand dollars ($1,000.00) for a first offense, one thousand five hundred dollars ($1,500.00) for a second offense, and two thousand dollars ($2,000.00) for a third or subsequent offense, regardless of the time between offenses. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense. In addition to such penalties, the town may enjoin or abate any violation of this ordinance by appropriate action, and, if the court finds for the town, the town shall recover its costs of suit, including reasonable experts' fees, reasonable attorneys' fees, and reasonable investigative costs.

SECTION 4. SEVERABILITY: If any section, phrase, sentence, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of any other section, phrase, sentence, or portion hereof.

THIS IS A PRESENT MAINE STATE LAW, AND DOES NOT REQUIRE OUR VOTE.

basis of insufficiency of trial counsel. State v. Dafoe (1983) Me., 463 A.2d 770.

9. Sufficiency of evidence

Defendant's conviction of burglary and criminal mischief was supported by evidence that telephone inside burglarized apartment had been damaged, police were able to follow unbroken tracks from apartment to point where defendant was apprehended, and three weeks prior to defendant's entry into apartment telephones at another apartment had been disconnected and cords removed after defendant was seen at that residence. State v. Jacques (1988) Me., 537 A.2d 587.

Testimony of arresting officer that police cruiser was assigned to him by the town police department was sufficient to allow the jury to conclude beyond a reasonable doubt that the police cruiser was the property of another as required to prove criminal mischief. State v. Perry (1985) Me., 486 A.2d 154.

10.5. Instructions

Although evidence properly warranted only instruction on criminal mischief as defined as damaging or destroying property of another and not additional instruction containing alternative definition of destroying or damaging property of utility, inclusion of alternative definition in instruction did not rise to level of obvious error. State v. Jacques (1988) Me., 537 A.2d 587.

Since defenses of duress, competing harms and self-defense were not supported by the evidence in disorderly conduct, criminal mischief and escape prosecution, trial court properly instructed on the only defense generated by the evidence, that to the charge of escape. State v. Perry (1985) Me., 486 A.2d 154.

In prosecution for criminal mischief, there was no error in refusing to give requested instruction on "competing harms" defense absent sufficient evidence to generate such defense. State v. Brasslett (1982) Me., 452 A.2d 973.

12. Review

Sentences to six-month prison terms for criminal mischief were not facially invalid, and thus claimed sentencing infirmities were not cognizable on direct appeal. State v. Brasslett (1982) Me., 452 A.2d 973.

§ 807. Repealed. Laws 1995, c. 434, § 2

Historical and Statutory Notes

The repealed section, which made a person guilty of animal enterprise terrorism where such person intentionally causes physical disruption to the functioning of an animal enterprise, was derived from: Laws 1993, c. 83, § 1.

CHAPTER 35

PROSTITUTION AND PUBLIC INDECENCY

Section
851. Definitions.
852. Aggravated promotion of prostitution.
853-A. Engaging in prostitution.
853-B. Engaging a prostitute.
854. Indecent conduct.

Law Review and Journal Commentaries

Commentaries on Maine Criminal Code: Sex offenses. Judy R. Potter, 28 Me.L.Rev. 65 (1976).

§ 851. Definitions

As used in this chapter:

1. "Prostitution" means engaging in, or agreeing to engage in, or offering to engage in a sexual act or sexual contact, as those terms are defined in section 251, in return for a pecuniary benefit to be received by the person engaging in prostitution or a 3rd person;

1-A. "Engages a prostitute" means providing or agreeing to provide, either to the person whose prostitution is sought or to a 3rd person, pecuniary benefit in return for a sexual act or sexual contact as those terms are defined in section 251;

2. "Promotes prostitution" means:

A. Causing or aiding another to commit or engage in prostitution, other than as a patron;

Law Review and Journal Commentaries

Commentaries on Maine Criminal Code: Sex offenses. Judy R. Potter, 28 Me.L.Rev. 65 (1976).

Prevention versus punishment: Toward a principled distinction in the restraint of released sex offenders. 109 Harv.L.Rev. 1711 (1996).

§ 251. Definitions and general provisions

1. In this chapter the following definitions apply.

[See main volume for A]

B. Repealed. Laws 1989, c. 401, § A, 2.

C. "Sexual act" means:

(1) Any act between 2 persons involving direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other;

(2) Any act between a person and an animal being used by another person which act involves direct physical contact between the genitals of one and the mouth or anus of the other, or direct physical contact between the genitals of one and the genitals of the other; or

(3) Any act involving direct physical contact between the genitals or anus of one and an instrument or device manipulated by another person when that act is done for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

A sexual act may be proved without allegation or proof of penetration.

D. "Sexual contact" means any touching of the genitals or anus, directly or through clothing, other than as would constitute a sexual act, for the purpose of arousing or gratifying sexual desire or for the purpose of causing bodily injury or offensive physical contact.

E. "Compulsion" means the use of physical force, a threat to use physical force or a combination thereof that makes a person unable to physically repel the actor or produces in that person a reasonable fear that death, serious bodily injury or kidnapping might be imminently inflicted upon that person or another human being.

"Compulsion" as defined in this paragraph places no duty upon the victim to resist the actor.

1985, c. 495, §§ 5, 6; 1989, c. 401, § A, 2; 1991, c. 457.

Historical and Statutory Notes

Amendments

1985 Amendment. Laws 1985, c. 495, repealed and replaced subsec. 1, C.

Laws 1985, c. 495, subsec. 1, D, inserted "or anus", and added "or for the purpose of causing bodily injury or offensive physical contact".

1989 Amendment. Laws 1989, c. 401, § A, 2, repealed subsec. 1, par. B, which defined "sexual intercourse".

1991 Amendment. Laws 1991, c. 457, in subsec. 1, par. E, first par., substituted references to the use of physical force and a threat to use physical force for references merely to physical force and a threat of physical force; and added subsec. 1, par. E, last par., stating that compulsion places no duty upon the victim to resist the actor.

Notes of Decisions

Indictment, information or complaint 6

1. In general

In view of availability of motion for bill of particulars, defendant charged with "sexual act" was not impermissibly impeded in proper preparation of defense. State v. Hebert (1982) Me., 448 A.2d 322.

2. Sexual act—In general

In prosecution for gross sexual misconduct, jury charge on definition of "sexual act" which included the words "of sexual gratification," even if erroneous, did not prejudice defendant; definition given by court placed greater burden on state than that imposed after change in statutory definition of sexual act during time period covered by indictment, and thus any error inured to defendant's benefit. State v. Parsons (1993) Me., 626 A.2d 348.

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UNITY PLANNING BOARD ORDINANCE

1. Establishment

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution, and 30-A MRSA §3001, the Town of Unity hereby establishes a planning board. The board which has been acting as a planning board for the Town of Unity is hereby reestablished as the legal planning board for the purposes of this ordinance. The actions which that board took prior to the adoption of this ordinance are hereby declared to be the bona fide acts of the legally constituted planning board of the Town of Unity.

2. Purpose

The purpose of the planning board is to monitor and regulate growth, development and land use within the Town of Unity as directed by Town ordinance and State statute. The board shall advise landowners and developers upon request without prejudice to final action, interpret applicable laws and ordinances, and work closely with the Unity code enforcement officer to issue permits, review subdivisions and conduct other regulatory duties as directed by law and ordinance.

The board shall monitor growth and development in relation to the Town's adopted goals and objectives, participate in periodic revisions of the Unity Comprehensive Plan and make recommendations to the Comprehensive Plan Committee and townspeople regarding adjustments to Unity's land use ordinances and related policies and regulations.

The board shall not be involved in the enforcement of land use regulations; any alleged violations shall be referred to the code enforcement officer.

3. Appointment

A. Board members shall be appointed by the selectmen and sworn in by the clerk or other person authorized to administer oaths.

B. The board shall consist of seven members.

C. (1) The term of each member shall be three years. Terms will be staggered, with three members appointed in 1995, and two members appointed in 1994 and 1996. The cycle of appointments shall be repeated every three years.

(2) Those members serving on the planning board at the time this ordinance is enacted shall be considered to have been properly appointed until their respective terms of office expire.

D. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the town, or when a member fails to attend four consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve month period. When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after written notice and hearing.

E. All members shall be residents of the Town of Unity.

F. The following municipal offices are considered to be incompatible with concurrent service on the planning board. If any of the following persons or their spouses are appointed to the planning board, they will be considered to have resigned the other position: persons holding elected municipal office and persons serving on the board of appeals.

4. Organization and Rules

A. The board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all offices shall be one year with eligibility for re-election. Elections shall be held at the first meeting following annual appointment of members.

B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and authorized to vote, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his or her employer, or the employer of any member of the person's immediate family.

C. The board shall schedule at least one regular meeting each month, which shall be posted in the municipal office. If no permit applications or other business have been filed in the town office as of two business days before the meeting, the chairman may cancel the meeting.

D. No meeting of the board shall be held without a quorum of four members. On any specific piece of business, four members must be eligible to vote or the matter must be postponed. The board shall act by majority vote calculated on the basis of the number of members present and voting.

E. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected.

5. Duties and Powers

A. The board shall perform such duties and exercise such powers as are provided by Unity ordinance and the laws of the State of Maine.

B. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

C. Board members may be compensated for their service as authorized and appropriated by the legislative body in any given year.

6. Effective Date

Having been enacted on March 26, 1994, this ordinance is effective as of May 1, 1994.

UNITY PLANNING BOARD BYLAWS
(Adopted April 12, 1994)

1. General Provisions

   A. These bylaws are written to provide guidance for the conduct of planning board business beyond that prescribed by the Unity Planning Board Ordinance and specific procedural requirements of other laws and ordinances directed to the planning board.

   B. These bylaws are internal to the planning board and may be amended by majority vote of the board.

   C. These bylaws will be posted at the town office and made available to members of the public upon request.

   D. Business of the Board shall be conducted in accordance with *Maine Revised Statutes Annotated (MRSA)*, Unity ordinances and *Robert's Rules of Order*.

   E. Planning board members are expected to be knowledgeable of laws, ordinances, regulations and these bylaws and to abide by them. When a new member is appointed to the board, the secretary (or chairperson, in absence of the secretary) shall provide the new member with a copy of all Unity land use ordinances and these bylaws. The board may require new members to attend available training sessions; the Town will pay for any registration fees of such sessions.

2. Officers and their Duties

   A. The officers of the board shall be a chairperson, vice-chairperson and a secretary. The chairperson and vice-chairperson must be members of the board. The secretary may either be a board member or be hired by the board to perform necessary functions.

   B. The chairperson shall preside at all meetings and hearings of the board. The chairperson has the authority to call meetings, schedule work sessions and appoint committees.

   C. The vice-chairperson shall act for the chairperson in his or her absence.

   D. The secretary shall be responsible for the minutes and records of the board, notice of meetings and hearings to board members and the general public, correspondence of the board and other duties as are normally carried out by a secretary. The secretary shall keep a record of all resolutions, votes, permits and approvals granted and/or denied and reasons therefor, transactions, correspondence, findings and conclusions of the board. All records shall be available for public inspection during town office hours, at a time reasonably convenient for the official responsible for the records. Records in the secretary's personal possession shall be filed at the town office as soon as practicable.

E. The chairperson and secretary shall jointly develop meeting agendas, based upon anticipated old business, new applications and other board business known as of two days prior to a scheduled meeting.

F. Nominations of officers shall be made from among members of the board at the first regular meeting following annual appointments. This will generally fall on the April meeting. Each candidate receiving a majority vote shall be elected and serve a term of one year or until the next election.

G. Vacancies shall be filled by the board at the earliest opportunity.

3. Meetings

A. Regular meetings of the board shall be held on the second Tuesday of the month at 7:00 PM in the Unity Union Church. If no business is known as of 48 hours prior to a regular meeting, the chairperson may cancel the meeting. The secretary shall notify members and the general public of the cancellation.

B. All meetings of the board shall be open to the public. Notice of meetings other than regularly scheduled monthly meetings shall be posted at least three days in advance at the town office. When possible, notice will also be posted at the Unity Post Office and in the *Central Maine Morning Sentinel* and *Bangor Daily News*.

C. If it is known prior to a meeting that there will not be a quorum in attendance, the chairperson and secretary shall work together to find an alternate date upon which to hold the meeting. At least three days' notice shall be given for such meeting changes to members and the public.

D. In the event a quorum is not present when a meeting has been called to order, the members present and other interested parties present who have business to transact with the board shall find a suitable alternate date and reschedule the meeting accordingly. The secretary shall notify the absent members, municipal officials, and general public of the new meeting date and agenda.

E. All matters shall be decided by a roll call vote. A majority of the voting members is needed to pass any motion. When a motion results in a tie vote the motion fails.

F. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.

G. New business will generally be taken up in the order in which applications were filed at the town office. This policy may be adjusted to accommodate personal schedules if agreed upon by those affected. If there is too much business to be conducted within a reasonable time period (3 hours), remaining applications may be postponed to the next regular meeting or to an interim meeting if one is called.

H. No action will be taken on any application until the application is complete and any fee due is paid to the Town.

I. Upon a majority vote of those present and voting, the board may call for an executive session to meet with the town attorney about pending or potential litigation.

4. Hearings

A. Notification Requirements

(1) The board may schedule a public hearing on any application within the time frames established by applicable state law or local ordinance. The board shall hold a hearing on all applications for subdivision approval.

(2) The board shall cause notice of the date, time and place of such hearing, the location of the building and lot, and the general nature of the question involved, to be given to the person making the application, the municipal officers, and abuttors and/or other interested parties if called for by statute or ordinance. The notice shall be published in the *Central Maine Morning Sentinel* and in the *Bangor Daily News*. If the schedule allows, the notice will also be placed in the *Waldo Independent* and in the *Republican Journal*.

(3) Unless statute or ordinance specify otherwise, one notice shall be published and delivered 14 days prior to the hearing.

B. Order of Business

(1) The chairperson calls the hearing to order and determines whether there is a quorum.

(2) The chairperson then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.

(3) The board determines whether the applicant or applicant's agent has sufficient right, title or interest to appear before the board.

(4) The board determines whether it has jurisdiction over the application.

(5) The board determines which individuals attending the hearing are "interested parties." "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and others who might be adversely affected by the board's decision. Parties may be required by the board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. The municipal officers and code enforcement officer shall automatically be made parties to the proceeding.

Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity for the purpose of the hearing.

(6) The chairperson gives a statement of the case and incorporates into the record correspondence and reports filed with the board prior to the hearing. This material shall be available for public inspection.

(7) The applicant is given the opportunity to present his or her case without interruption.

(8) The board and interested parties may ask questions of the applicant through the chair.

(9) The interested parties are given the opportunity to present their testimony, starting with the proponents, followed by the opponents. The board may call its own witnesses, such as the code enforcement officer, planner or its consultant.

(10) The applicant may ask questions of the interested parties and board witnesses directly.

(11) All parties are given the opportunity to refute or rebut statements made throughout the hearing.

(12) The board shall receive comments and questions from all observers and interested citizens who wish to express their views.

(13) The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to another date. All interested parties shall be notified of the date, time and place of the continued hearing, and the reasons for the continuance.

(14) Upon such request made prior to or during the course of the hearing, the chairperson may permit persons participating in any hearing to file written statements with the board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the chairperson may require.

(15) Board members and consultants of the board have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized.

(16) The board may waive any of the above rules.

(17) Any participant or other member of the public may obtain a copy of the record from the board upon payment of the cost of transcription, reproduction and postage.

5. Decisions

A. Decisions by the board shall be made within the time limits established by state law and local ordinances and regulations.

B. When the board is not sure of the meaning of a law or regulation, a decision should be tabled until necessary research is done or technical assistance is obtained to clarify the question. Any member of the board may be authorized by the chairman to contact the Maine Municipal Association, Kennebec Valley Council of Governments, or other source of technical assistance that will not result in a fee charged to the Town. Hiring of other expertise will only be done upon majority vote of the board and approval of the board of selectmen.

C. Final decision on any application before the board shall be made by recorded roll call vote. A majority of those present and voting is required to pass any motion.

D. The final decision on any matter before the board shall be issued as a written order, or permit, and signed by either the chairperson or the secretary. Abstention from voting on the matter by absence or conflict shall not interfere with an officer's signing of the order/permit on behalf of the board.

E. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefor. At a minimum, the record should specifically state that the applicant has or has not met all applicable state statutory requirements, all applicable municipal ordinances and all applicable municipal regulations. Each law or regulation will be specifically referenced in the decision.

F. The board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance or regulation, as well as by community goals and policies as specified in the Unity Comprehensive Plan.

G. A copy of any decision, including the findings, conclusions and minutes, shall be sent by mail or hand delivered to the applicant or to his/her agent, within 21 days of being rendered.

H. Decisions of the board shall be immediately filed in the town office and shall be made public record. The date of filing of each decision shall be entered in the municipal records and minutes of the board. A copy of each decision shall be distributed to the code enforcement officer and to the fire chief.

I. Within 30 days of receiving approval for a subdivision, the subdivider shall file at the town office a copy of the receipt for recording the subdivision in the Waldo County Registry of Deeds. This will complete the file on a subdivision application.

6. Amendments

These bylaws may be amended by majority vote of the board at a regularly scheduled meeting.

7. Severability

If any portion of these bylaws is found to be invalid, no other portion of these bylaws shall be affected.

THESE BYLAWS WERE DISCUSSED AT A PUBLIC HEARING ON MARCH 8, 1994 AND ADOPTED AT THE REGULARLY SCHEDULED PLANNING BOARD MEETING ON APRIL 12, 1994.

PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.

PREAMBLE

WHEREAS, the 124th Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

ARTICLE I - PURPOSE AND ENABLING LEGISLATION

§ XX-1 Purpose

By and through this Chapter, the Town of Unity declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town. The Town declares its purpose and the provisions of this Chapter/Ordinance to be in conformity with federal and State laws.

§ XX-2 Enabling Legislation

The Town enacts this Chapter/Ordinance pursuant to Public Law 2009, Chapter 591 of the 124th Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq.*).

ARTICLE II - TITLE AND DEFINITIONS

§ XX-3 Title

This Chapter/Ordinance shall be known and may be cited as "the Town of Unity Property Assessed Clean Energy (PACE) Ordinance" (the "Ordinance")."

§ XX-4 Definitions

Except as specifically defined below, words and phrases used in this Chapter/Ordinance shall have their customary meanings; as used in this Chapter/Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** "Energy saving improvement" means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:

A. Will result in increased energy efficiency and substantially reduced energy use and:

(1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy ~~Energy~~-Star program or similar energy efficiency standards established or approved by the Trust; or

(2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or

B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.

2. **Municipality.** "Municipality" shall mean the Town of Unity.

3. **PACE agreement.** "Pace agreement" means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.

4. **PACE assessment.** "PACE assessment" means an assessment made against qualifying property to repay a PACE loan.

5. **PACE district.** "Pace district" means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality's boundaries.

6. **PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.

7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.

8. **PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.

9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.

10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.

11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

ARTICLE III - PACE PROGRAM

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.

2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.

ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST

1. Standards adopted; Rules promulgated; model documents. If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY

1. Program Administration

A. PACE Administration Contract. Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;

ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;

iii. the Trust, or its agent, will disburse the PACE loan to the property owner;

iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;

v. the Trust, or its agent, will be responsible for collection of the PACE assessments;

vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;

vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.

B. Adoption of Education and Outreach Program. In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

C. Assistance and Cooperation. The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

D. Assessments Not a Tax. PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

2. Liability of Municipal Officials; Liability of Municipality

A. Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

B. Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article VI, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

Adopted -
March 2011

Ordinance Restricting Vehicle Weight on Posted Ways

Enacted March 25, 2017

Section 1. Purpose and Authority
The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Unity (which may be caused by vehicles of excessive weight), to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

Section 2. Definitions
The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

Section 3. Restrictions and Notices
The municipal officers may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable time period on any way or bridge so posted unless otherwise exempt as provided herein.

Pursuant to 29-A M.R.S.A. § 2395, the notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signatures of the municipal officers. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein.

Section 4. Exemptions
The following vehicles are exempt under State law:

Any vehicle delivering home heating fuel and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

The following vehicles are also exempt under the specific provisions of this ordinance:

1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
3. MaineDOT vehicles or other vehicles authorized by MaineDOT or a municipality or county to maintain the roads under their authority.
4. Authorized emergency vehicles as defined in 29-A M.R.S.A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
5. Any two axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities includes any of the following:
    a. Home delivered heating fuel (oil, gas, coal, stove size wood that is less than 36" in length, propane and wood pellets);
    b. Petroleum products;
    c. Groceries;
    d. Bulk milk;
    e. Bulk feed;
    f. Solid waste;
    g. Animal bedding;
    h. Returnable beverage containers;
    i. Sewage from private septic tanks or porta-potties; or
    j. Medical gases.

Section 5. Permits

The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers for a permit to operate on a posted way or bridge notwithstanding the restriction. The municipal officers may issue a permit only upon all of the following findings:

a) no other route is reasonably available to the applicant;
b) it is a matter of economic or environmental necessity and not mere convenience that the applicant use the way or bridge; and
c) the applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in their judgment, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. They may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the highways and bridges.

In determining whether to issue a permit, the municipal officers shall also consider the following factors:

a) the gross registered weight of the vehicle;

b) the current and anticipated condition of the way or bridge;
c) the number and frequency of vehicle trips proposed;
d) the cost and availability of materials and equipment for repairs;
e) the extent of use by other exempt vehicles; and
f) such other circumstances as may, in their judgment, be relevant.

The municipal officers may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

Section 6. Administration and Enforcement
This Ordinance shall be administered and may be enforced by the municipal officers or their duly authorized designee [such as road commissioner, code enforcement officer or law enforcement officer].

Section 7. Penalties
Any violation of this Ordinance shall be a civil infraction subject to a fine of not less than $250.00 nor more than $1000.00. Each violation shall be deemed a separate offense. In addition to any fine, the municipality may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the municipality and shall be brought in the Maine District Court.

Section 8. Amendments
This Ordinance may be amended by the municipal officers at any properly noticed meeting.

Section 9. 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 take effect immediately upon enactment by the municipal officers at any properly noticed meeting.

Shoreland Zoning Ordinance

For the

TOWN OF UNITY

Adopted at the Annual Town Meeting
March 28, 2009

Town of Unity
Shoreland Zoning Ordinance

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1. **Purposes.** The purposes of this Ordinance 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.

2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).

3. **Applicability.** This Ordinance applies 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.

   This Ordinance also applies 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. **Effective Date**

   A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on March 28, 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.

   B. <u>Repeal of Municipal Timber Harvesting Regulation.</u> The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-B(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-B(5), the following provisions of this Ordinance are repealed:

   - Section 14. Table of Land Uses, Item 3 (Forest management activities except for timber harvesting) and Item 4 (Timber harvesting);
   - Section 15(O) in its entirety; and
   - Section 17. Definitions, the definitions of "forest management activities", "residual basal area", "skid trail", and "slash".

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

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

7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance 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.

8. **Amendments.** This Ordinance 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.

9. **Districts and Zoning Map**

   A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is 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:

      (1) Resource Protection
      (2) Limited Residential
      (3) Limited Commercial
      (4) General Development
      (5) Stream Protection

   B. **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.

   C. **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.

   D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 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.

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.

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.

12. **Non-conformance.**

A. **Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. **General**

(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.

(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.

C. **Non-conforming Structures**

(1) 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 (a), and (b) below.

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.

ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream, or wetland setback requirement.

iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond or a river flowing to a great pond, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

(2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board 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:

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

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

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

(3) 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 Section 12(C)(1) above, as determined by the non-conforming floor area of the reconstructed or replaced structure at its new location. If the total amount of floor area of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) 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 Section 12(C)(2) above, the physical condition and type of foundation present, if any.

(4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the 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.

D. Non-conforming Uses

(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 Section 12(C)(1)(a) above.

(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.

(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 Section 12(C)(4) above.

E. Non-conforming Lots

(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.

(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.

(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.

13. Establishment of Districts

A. 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 or General Development District need not be included within the Resource Protection District.

(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 December 31, 2008. 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.

In Unity, this includes the 250' shoreland area surrounding all of the wetlands shown on MDIF&W's map entitled "Town of Unity - Moderate and High Value Freshwater Wetlands – Revised" dated September 8, 2008, except those wetlands which are specifically identified within this Ordinance as falling in another disctict.

(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.

In Unity, this includes the 250' shoreland area surrounding Twentyfive Mile Stream.

(3) Areas of two (2) or more contiguous acres with sustained slopes of 20% or greater.

In Unity, there are no sites known to fulfill this criterion. However, if any such site is found upon site inspection, the provisions of this section would apply.

(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.

In Unity, there is one known wetland meeting this description. It is identified as DEP ID#299 on the south side of Unity Pond. If other sites are found upon site inspective, the provisiosns of this section would apply.

(5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

In Unity, there are no sites known to fulfill this criterion. However, if any such site is found upon site inspection, the provisions of this section would apply.

(6) Other generally sensitive lands and wildlife habitat.

In Unity, this includes the following areas:

The 250' shoreland area along Sandy Stream, from the northern edge of the property owned by George Reed to the river mouth at Unity Pond;

The 250' shoreland area surrounding the following freshwater wetlands: DEP ID #s 214, 219, 220, 221, 222, 223, 224, 265 (excepting that area in commom with Unity Pond shoreland, which is Limited Residential), 266, 267, 268, 296, 300, and 301.

B. 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 or the General Development Districts.

In Unity, this includes the following shoreland areas:

The 250' shoreland area around Unity Pond, except for: a) the area surrounding the Sandy Stream inlet and Twentyfive Mile Stream outlet, which is a Resource Protection District; b) the area along the southeastern edge of Unity Pond, from the western property line of land owned by Evelyn White to the northeastern edge of the property owned by Unity College, all of which is zoned Limitited Commercial; and c) the wetland area around DEP ID#299, which is zoned Resource Protection;

The 250' shoreland area alongside Halfmoon Stream from the Thorndike Town Line to its juncture with Sandy Stream;

The 250' shoreland area alongside Sandy Stream from the point of its confluence with Halfmoon Stream to the point of its confluence with DEP ID#298 on the north bank, and to the point of its confluence with Mussey Brook on the south bank;

The 250'shoreland area alongside the south bank of Sandy Stream from Quaker Hill Road to the south boundary of the MDIF&W property north of School Street;

The 250' shoreland area along t he east bank of Sandy Stream from Main Street to the eastern boundary of Unity raceway;

The 250' shoreland area surrounding the following freshwater wetlands: DEP ID#s 265, 270,285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 297, 298 (south side bounded by Sandy Stream only) and 299.

C. **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 as the General Development Districts. 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.

In Unity, this includes:

The 250' area along the southern edge of Unity Pond, from the western edge of the property owned by Evelyn White to the northeastern edge of the Unity College property (except for the wetland area within DEP ID#299, which is zoned Resource Protection);

The 250' shoreland area along the north bank of Sandy Stream from the point of its most downstream confluence with DEP ID# 298 to Main Street, and from the eastern boundary of the Unity Raceway property to School Street;

The 250' shoreland area along the south bank of Sandy Stream from Mussey Brook to Quaker Hill Road;

The 250' shoreland area surrounding DEP ID# 295 (south of the Dump Road and north of Halfmoon Stream, just west of Thorndike Town Line).

D. **General Development District.** The General Development District includes the following types of existing, intensively developed areas:

(1) Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:

(a) Areas devoted to manufacturing, fabricating or other industrial activities;

(b) Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and

(c) Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.

(2) Areas otherwise discernible as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

There shall be no General Development Districts established or expanded adjacent to great ponds, and adjacent to rivers that flow to great ponds.

In Unity, no properties have yet been included in this district.

F. 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.

In Unity, this applies to all streams expect those excluded by the above provisions.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

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	GD	General Development
LR -	Limited Residential	LC -	Limited Commercial
SP -	Stream Protection		

TABLE 1. LAND USES IN THE SHORELAND ZONE

LAND USES	DISTRICT				
	SP	RP	LR	LC	GD
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes	yes
3. Forest management activities except for timber harvesting	yes	yes	yes	yes	yes
4. Timber harvesting	yes	CEO	yes	yes	yes
5. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO[1]	yes	yes	yes
6. Fire prevention activities	yes	yes	yes	yes	yes
7. Wildlife management practices	yes	yes	yes	yes	yes
8. Soil and water conservation practices	yes	yes	yes	yes	yes
9. Mineral exploration	no	yes[2]	yes[2]	yes[2]	yes[2]
10. Mineral extraction including sand and gravel extraction	no	PB[3]	PB	PB	PB
11. Surveying and resource analysis	yes	yes	yes	yes	yes
12. Emergency operations	yes	yes	yes	yes	yes
13. Agriculture	yes	PB	yes	yes	yes
14. Aquaculture	PB	PB	PB	yes	yes
15. Principal structures and uses					
A. One and two family residential, including driveways	PB[4]	PB[9]	CEO	CEO	CEO
B. Multi-unit residential	no	no	PB	PB	PB
C. Commercial	no[10]	no[10]	no[10]	PB	PB
D. Industrial	no	no	no	no	PB
E. Governmental and institutional	no	no	PB	PB	PB
F.Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB[4]	PB	CEO	CEO	CEO
16. Structures accessory to allowed uses	PB[4]	PB	CEO	CEO	yes
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]	CEO[11]
b. Permanent	PB	PB	PB	PB	PB
18. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI	LPI
19. Home occupations	PB	PB	PB	CEO	yes
20. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI	LPI
21. Essential services[O1]					
A. Roadside distribution lines (34.5kV and lower)	CEO[6]	CEO[6]	yes[12]	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	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB[6]	PB[6]	PB	PB	PB
D. Other essential services	PB[6]	PB[6]	PB	PB	PB
22. Service drops, as defined, to allowed uses	yes	yes	yes	yes	yes
23. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO	CEO
24. Individual, private campsites	CEO	CEO	CEO	CEO	CEO
25. Campgrounds	no	no[7]	PB	PB	PB
26. Road construction	PB	no[8]	PB	PB	PB
27. Parking facilities	no	no[7]	PB	PB	PB
28. Marinas	PB	no	PB	PB	PB
29. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes
30. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO
31. Signs	yes	yes	yes	yes	yes
32. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO
33. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB

[1]In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.
[2]Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.
[3]In RP not allowed in areas so designated because of wildlife value.
[4]Provided that a variance from the setback requirement is obtained from the Board of Appeals.
[6]See further restrictions in Section 15(L)(2).
[7]Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.
[8]Except as provided in Section 15(H)(3).
[9]Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.
[10]Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.
[11]Excluding 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: 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.

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

(1) All new lots with shore frontage shall conform to the following standards, and any existing lots that do not meet these standards are considered non-conforming lots:

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(a) Residential per dwelling unit	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure	60,000	300
(c) Public and Private Recreational Facilities	40,000	200

(2) In addition, new lots shall conform to the lot standards outlined in Unity's Land Use Ordinance, including average lot size requirements.

(3) Nothing in this section will prevent dividing a preexisting shorefront lot (even if it does not meet the minimum shore frontage requirements outlined in this section) to create a new lot without shore frontage, provided that all other lot standards are met for each new lot, and provided that the minimum lot width of the lots are not made non-conforming nor more non-conforming.

(4) All new lots without shore frontage located all or partly within the shoreland zone shall conform to the lot standards outlined in Unity's Land Use Ordiance, including minimum lot size and average lot size requirements.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

B. Principal and Accessory Structures

(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 and rivers that flow to great ponds, 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:

(a) 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.

(b) 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 nor 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 closer to the shoreline or tributary stream than the principal structure.

(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.

(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. Accessoory strucutures may not need to meee the elevation requirements of this paragraph if placed in accordiance with Unity's Floodplain Management Oridiances, where applicable.

(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, except in the General Development District adjacent to rivers that do not flow to great ponds, where lot coverage shall not exceed seventy (70) percent.

(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:

(a) The site has been previously altered and an effective vegetated buffer does not exist;

(b) 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;

(b) 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;

(c) The total height of the wall(s), in the aggregate, are no more than 24 inches;

(e) 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 floodplain soils.

(f) 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

(g) 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:

(i) 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;

(ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;

(iii) Only native species may be used to establish the buffer area;

(iv) 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;

(v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

(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.

E. 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.

(1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.

(2) The location shall not interfere with existing developed or natural beach areas.

(3) The facility shall be located so as to minimize adverse effects on fisheries.

(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.

(5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending below the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

(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.

(7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending below the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.

(8) Except in the General Development District, structures built on, over or abutting a pier, wharf, dock or other structure extending below 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.

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

(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.

(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 or a river flowing to a great pond, 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.

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

(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.

(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 or river flowing to a great pond, 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.

(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) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.

(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.

(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.

F. Commercial and Industrial Uses. The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds, and rivers and streams which flow to great ponds:

(1) Auto washing facilities
(2) Auto or other vehicle service and/or repair operations, including body shops
(3) Chemical and bacteriological laboratories
(4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
(5) Commercial painting, wood preserving, and furniture stripping
(6) Dry cleaning establishments
(7) Electronic circuit assembly
(8) Laundromats, unless connected to a sanitary sewer
(9) Metal plating, finishing, or polishing
(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
(11) Photographic processing

(12)Printing

G. Parking Areas

(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 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.

(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.

(3) In determining the appropriate size of proposed parking facilities, the following shall apply:

(a) 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.

(b) Internal travel aisles: Approximately twenty (20) feet wide.

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

(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 or a river that flows to a great pond, 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.

Section 15 (H)(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 Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

(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.

(3) 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) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).

(5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.

(6) 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.

(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:

(a) 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

(b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.

(c) 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.

(d) 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.

(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.

I **Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

(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.

(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.

(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) 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.

(5) Signs relating to public safety shall be allowed without restriction.

(6) No sign shall extend higher than twenty (20) feet above the ground.

(7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

(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.

(2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

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

line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

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

(2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection Districts, 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.

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

M. 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 to restore disturbed areas and to protect the public health and safety.

Mineral extraction may be permitted under the following conditions:

(1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(3) below.

(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 or a river flowing to a great pond, 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.

(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:

(a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.

(b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.

(c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.

(4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

(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).

(2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.

(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) 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; 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.

(5) 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; 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.

O. Timber Harvesting

(1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:

(a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:

(1) The ground is frozen;

(2) There is no resultant soil disturbance;
(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) 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
(5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.

(b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.

(2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:

(a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:

(i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond or a river flowing to a great pond, 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.

(ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond or a river flowing to a great pond, 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.

(b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) 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.

(c) 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.

(d) Timber harvesting equipment shall not use stream channels as travel routes except when:

(i) Surface waters are frozen; and

(ii) The activity will not result in any ground disturbance.

(e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.

(f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.

(g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of 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.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

(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.

(2) Except in areas as described in Section P(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 or a river flowing to a great pond, 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:

(a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

(b) 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 Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 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:

(i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
(ii) Each successive plot must be adjacent to, but not overlap a previous plot;
(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
(v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

(c) 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, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(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.

(3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond or a river flowing to a great pond, 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 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

(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:

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or riprap.

(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.

(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) 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:

(a) 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.

(b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

(c) 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.

(5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.

R. 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, 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.

S. 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.

T. 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.

16. Administration

A. Administering Bodies and Agents

(1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.

(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.

(3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. 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.

(1) A permit is not required for the replacement of an existing road culvert as long as:

(a) The replacement culvert is not more than 25% longer than the culvert being replaced;

(b) The replacement culvert is not longer than 75 feet; and

(c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.

(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 list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.

(3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

(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 Section 14.

(2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in 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.

(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) 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.

D. 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 Section 14, shall determine if the application is a complete application, and if the application is incomplete, it shall specify what additional material is needed to make the application complete. Wherever practical, 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, unless the application triggers review under a section of Unity's Land Use Ordinance that may involve an alternative procedure. Moreover, 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:

(1) Will maintain safe and healthful conditions;

(2) Will not result in water pollution, erosion, or sedimentation to surface waters;

(3) Will adequately provide for the disposal of all wastewater;

(4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

(5) Will conserve shore cover and visual, as well as actual, points of access to inland waters;

(6) Will protect archaeological and historic resources as designated in the comprehensive plan;

(7) Will avoid problems associated with floodplain development and use; and

(8) Is in conformance with the provisions of Section 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.

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting 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:

(1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.

(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.

(3) All proposed buildings, sewage disposal systems and other improvements are:

(a) Located on natural ground slopes of less than 20%; and

(b) Located outside the floodway of the 100-year floodplain 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 floodplain 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 1/2 the width of the 100-year floodplain.

(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.

(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 floodplain, and its proximity to moderate-value and high-value wetlands.

F. 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.

G. 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.

H. Appeals

(1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:

(a) 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.

(b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

(2) Variance Appeals. Variances may be granted only under the following conditions:

(a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.

(b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.

(c) The Board shall not grant a variance unless it finds that:

(i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and

(ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall 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.

(d) Notwithstanding Section 16(H)(2)(c)(ii) 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.

(e) 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.

(f) 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.

(3) Administrative Appeals

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

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

(4) Appeal Procedure

(a) Making an Appeal

(i) 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 Section 16(H)(1)(a) 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.

(ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:

a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.

b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.

(iii) 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.

(iv) 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.

(b) Decision by Board of Appeals

(i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.

(ii) The person filing the appeal shall have the burden of proof.

(iii) 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.

(iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection 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.

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

(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 abuttors 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.

I. Enforcement

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

(a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he 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.

(b) The Code Enforcement Officer shall conduct on-site inspections to ensure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.

(c) The Code Enforcement Officer shall keep a complete record of all 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.

(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) 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.

17. Definitions.

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

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

Agriculture - the production, keeping or maintenance for sale or lease, of plants and/or animals, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green-house products. Agriculture does not include forest management and timber harvesting activities.

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 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.

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.

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

Canopy – 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.

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.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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.

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 - an increase in the floor area or volume of a structure, including all extensions such as, but not limited to: attached decks, garages, porches and greenhouses.

Expansion of use - the addition of 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.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

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.

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, frostwalls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Often or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, 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 inland waters.

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,

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

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

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

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or 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 - The assembling, fabrication, finishing, manufacturing, packaging or processing of goods, or the extraction of minerals.

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.

Lot area - 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.

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.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any 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.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

Non-conforming lot - a single lot of record which, at the effective date of adoption or amendment of this Ordinance, does not meet the area, frontage, or width requirements of the district in which it is located.

Non-conforming structure - a structure which does not meet any one or more of the following dimensional requirements; setback, height, or lot coverage, but which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not allowed in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

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.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

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.

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.

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.

Service drop - 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.

Setback - 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.

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 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.

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.

Stream - a channel between defined banks created by the action of surface water and has at least 2 of the following characteristics: 1) depicted as a perennial or intermittent stream on the most recent edition of the USGS 7.5-minute series topographic map or if not available then the 15-minute series, 2) contains flowing water for a continuous period of 6 months or more, 3) the bed is primarily composed of mineral material such as sand and gravel, parent material, or bedrock, that has been deposited or scoured by water, 4) the channel contains aquatic vegetation, 5) the channel contains aquatic animals such as fish, insects, or mollusks in the water or in the stream bed.

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system.

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting.*

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 the shoreland zone.

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.

Vegetation - all live trees, shrubs, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2 feet above ground level.

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.

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.

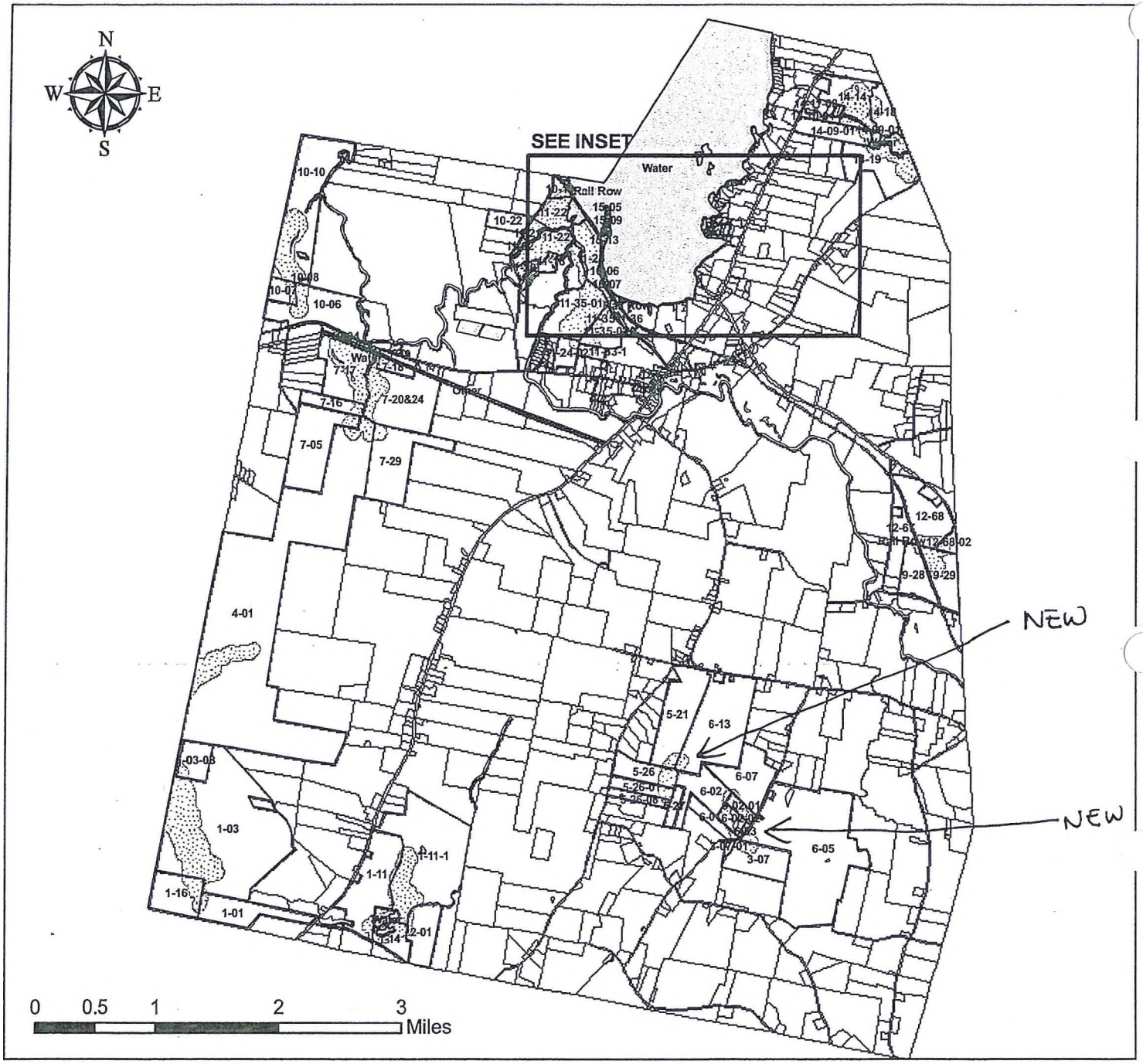
Woody Vegetation - live trees or woody, non-herbaceous shrubs.

NOTES ON MAPS:

If Town Meeting passes this new ordinance, Unity's Shoreland Zoning Map will need to be revised. A marked-up version of the existing map (showing changes) is being made available at the Public Hearing and at the Town Office.

The map attached on the next page shows where the state has designated freshwater wetlands of moderate and high value. The two wetlands marked "new" were not previously zoned resource protection. If the ordinance passes, there will be new resource protection zones around these two wetlands.

Town of Unity
Moderate and High Value Wetlands



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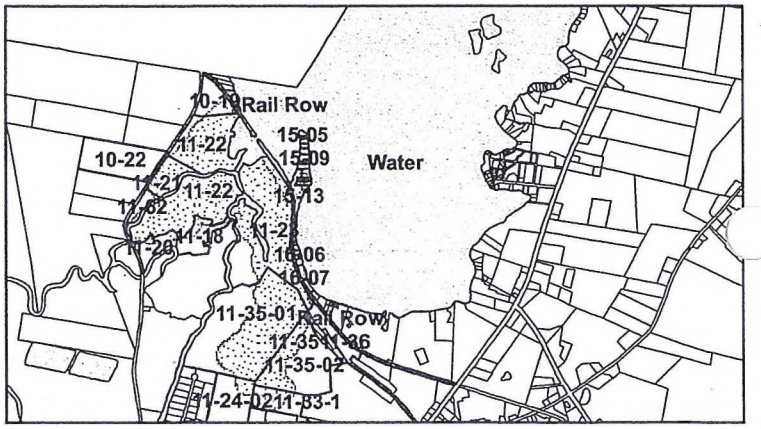
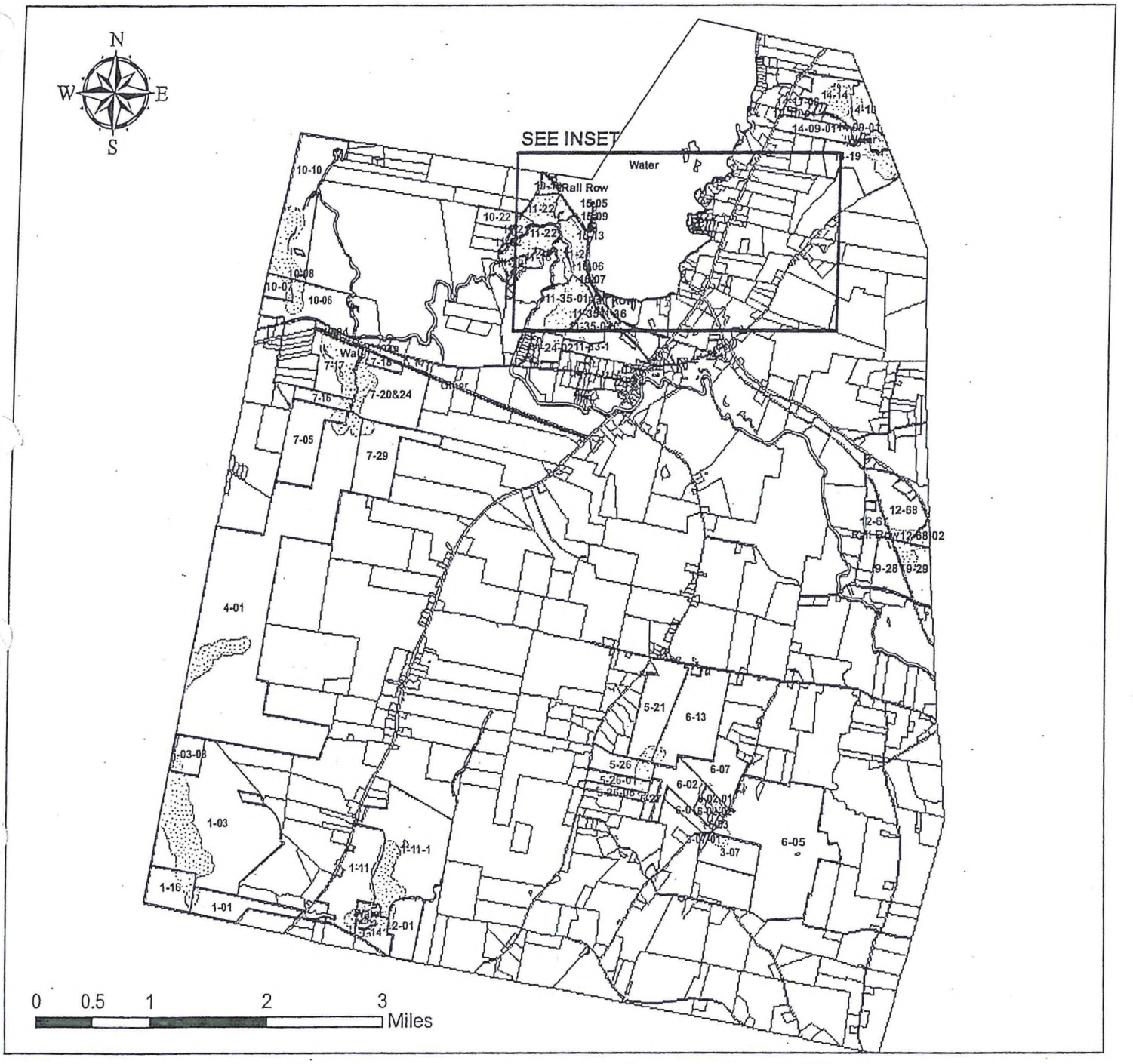


Legend

- Water
- Parcels containing wetlands
- Moderate and high value rates freshwater wetlands (IFW)

Town of Unity
Moderate and High Value Wetlands



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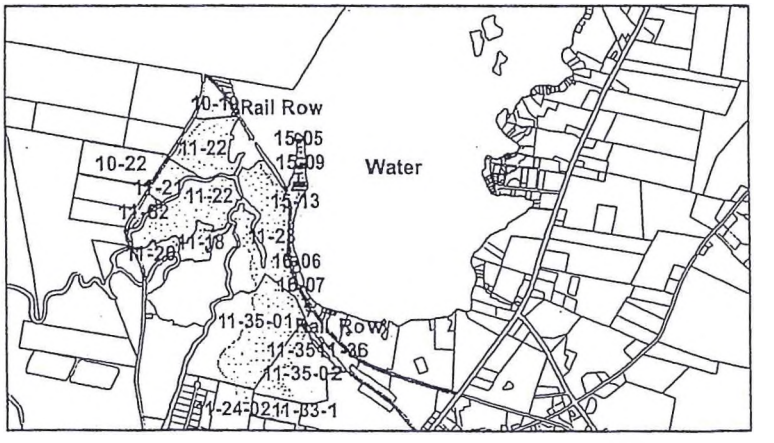

Legend

- Water
- Parcels containing wetlands
- Moderate and high value rates freshwater wetlands (IFW)

STATE OF MAINE

Department of Environmental Protection

JOHN ELIAS BALDACCI
GOVERNOR

David P. Littell
COMMISSIONER

April 8, 2009

Susan Lombard, Town Clerk
Town of Unity
4 Clifford Common
P.O. Box 416
Unity, Maine 04988-0416

Re: Approval of Shoreland Zoning Ordinance

Dear Ms. Lombard:

The Department of Environmental Protection has reviewed the *Town of Unity Shoreland Zoning Ordinance,* as adopted by the townspeople on March 28, 2009, and received by the Department on April 6, 2009. The Department finds the Ordinance to be consistent with the requirements of the Mandatory Shoreland Zoning Act and the *State of Maine Guidelines for Municipal Shoreland Zoning Ordinances,* as amended May 1, 2006. Therefore, the Department approves the Town's Ordinance as adopted on March 28th.

The Department thanks the Town of Unity for its efforts to update its shoreland zoning ordinance in a timely manner in response to the Board of Environmental Protection's amendments to the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances.

If you or any other town officials have questions relating to the Town's shoreland zoning ordinance you may reach Rich Baker at 287-7730 or by e-mail at rich.p.baker@maine.gov

Sincerely,

Signed on behalf of Commissioner David P. Littell pursuant to 10 MRSA Section 9418
2009.04.09 07:55:07 -04'00'

David P. Littell
Commissioner

pc: Selectmen
Charles Porter, Code Enforcement Officer
Planning Board
Rich Baker, DEP

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 624-6550 FAX: (207) 624-6024
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769-2094
(207) 764-6477 FAX: (207) 764-1507

web site: www.maine.gov/dep

Town of Unity

From: "John Piotti" <piotti@uninets.net>
To: "Town of Unity" <unity@uninets.net>
Cc: "Charles Porter" <cjporter@uninets.net>
Sent: Tuesday, October 07, 2008 9:38 AM
Attach: Unity page 7 B Limited Residential District.doc; Unity SECTION 13 Establishment of Districts.doc
Subject: shoreland zoning--new pages

Please confirm receipt

Sue,

I have attached two REVISED pages to Unity's shoreland zoning ordinance (pages 6 & 7) which incorporate the changes adopted in 2003. As you'll recall, the current printed ordinance simply lists these changes up front on a separate page (which comes immediately after the table of contents). That was fine as a stop-gap, but it made sense to incorporate the language into the text where it belong. It is an awful lot less confusing to the reader to have these items in the right place. Sorry that it has taken me so long to do so.

Sue, would you please print out the two new pages and make sure that they are incorporated into all existing copies of the Shoreland Zoning Ordinance at the town office. (You'll need to add these two revised pages and remove the single upfront page that lists the changes separately.)

Needless to say, you'll need to photocopy the new page 6 onto the back of the existing page 5, and photocopy the new page 7 onto to the back of the existing page 8.

Also, would you could please me make a handful of the new pages 5/6 and 7/8 so that I can hand them out at the next Planning Board meeting. (PB members can then switch pages in their binders.)

Let me know if you have any questions.

Thanks for all you do!

John P
Cc: Charlie

No virus found in this incoming message.
Checked by AVG.
Version: 7.5.524 / Virus Database: 270.7.6/1711 - Release Date: 10/6/08 5:37 PM

B. 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

In Unity, this includes several shoreland areas:

the 250' shoreland area surrounding Unity Pond, except for:

the area surrounding the Sandy Stream inlet and Twentyfive Mile Stream outlet, which is in the Resource Protection District;

the area along the southeastern edge of the Pond, from the western property line of the Unity Marina to the northeastern edge of the property owned by Unity College, all of which is zoned Limited Commercial; and

the wetland area within DEP ID #299, which is zoned Resource Protection.

the 250' shoreland area alongside Halfmoon Stream from the Thorndike Town Line to its juncture with Sandy Stream;

the 250' shoreland area alongside Sandy Stream from the point of its confluence with Halfmoon Stream to the point of its confluence with DEP Wetland ID #298 on the north bank, and to the point of its confluence with Mussey Brook on the south bank;

the 250' shoreland area along the south bank of Sandy Stream from Quaker Hill Road to the south boundary of the Maine Department of Inland Fisheries and Wildlife property north of School Street (Route 139);

the 250' shoreland area along the north bank of Sandy Stream from Main Street (Routes 202 & 9) to the eastern boundary of the property of Unity Raceway; and

the 250' shoreland area along the east bank of Sandy Stream from School Street (Route 139) to the northern edge of the property owned by George Reed; and

the 250' shoreland area along all of Bacon Brook that is located in Unity's Downtown District; and

the 250' shoreland area around the pond at the headwaters of Fowler Brook; and

the land surrounding the following freshwater wetlands: DEP ID #265 (portion of shoreland in common with Unity Pond shoreland only), 270, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 297, 298 (south side bounded by Sandy Stream only) and 299 (see Official Shoreland Zoning Map for locations).

Section 13. Establishment of Districts

A. 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 District need not be included within the Resource Protection District.

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 by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.

   In Unity, these include the 250' shoreland area surrounding wetlands with DEP ID# 264 (between Twentyfive Mile Stream and Burnham Town Line in northwest Unity) and DEP ID #269 (Kanokolus Bog in south-central Unity, the headwaters of Bacon Brook), including the pond at the southwest corner of the wetland.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Mapos, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.

   In Unity, this includes the 250' shoreland area surrounding Twentyfive Mile Stream.

3. 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 normal spring high water.

   In Unity, there is one known wetland meeting this description within the shoreland zone. It is identified as DEP ID#299 on the south side of Unity Pond. If other are found upon site inspection, the provisions of this section would apply.

4. Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement.

   There are no areas known to fulfill this criterion in Unity, however if found upon site inspection, the provisions of this section would apply.

5. Other generally sensitive lands and wildlife habitat.

   In Unity, this includes the following land areas:

   the 250' shoreland area along Sandy Stream, from the northern edge of the property owned by George Reed to the river's mouth at Unity Pond; and

   the 250' shoreland area along all of Bacon Brook that is located in Unity's Rural District, all of Fowler Brook (but not the pond at its headwaters), and all of Bog Brook (but not the pond at its headwaters); and

   the 250' shoreland area surrounding the following freshwater wetlands: DEP ID#214, 219, 220, 221, 222, 223, 224, 265 (excepting that area in common with Unity Pond shoreland, which is Limited Residential), 266, 267, 268, 296, 300 and 301 (see Official Shoreland Zoning Map for locations).

An Ordinance Relating to Traffic Control

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.

Regulated Areas: When "Parking for Handicapped Persons or Loading and Unloading ONLY" 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:

- On the Church side of **Depot Street** (Route 139) from the east boundary of the Church property for a distance of 115 feet toward Main Street, basically that area in front of the Church.

When "No Parking" 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:

- On the Unity Union Church side of **Depot Street** (Route 139) from the intersection of Main Street (Route 202) for a distance of 124 feet, and from the eastern boundary of the Church property to the intersection of the Thorndike Road (Route 220).
- On the opposite side of **Depot Street** from the Church, from the intersection of Main Street to the first driveway (Historical Society).
- On the racetrack side of **School Street** (Route 139) from the intersection of Prairie Road to the intersection of Main Street
- On the westerly side of **Main Street** (Route 202) the area in front of the Unicel store and the area in front of the Unity House of Pizza brick block.

Enforcement: This ordinance shall be enforced by the Municipal Officers or their duly appointed designees.

Penalties: Any person found in violation of this ordinance shall be subject to a fine of $5.00; all fines accrue to the municipality.

Effective date: This ordinance shall become effective when adopted by a majority of the Municipal Officers.

Ronald Rudolph
Ronald Rudolph

8/20/07
Date

Margret Wilcox
Margret Wilcox

James P. Kenney
James P. Kenney

Susan J. Lombard
Town Clerk
8/20/2007

TOWN OF UNITY WIND TURBINE GENERATOR ORDINANCE

~~*Proposed for community consideration*~~ *March 2011*

ADOPTED

1.0 Title

This Ordinance shall be known as the Town of Unity Wind Turbine Generator (WTG) Ordinance.

2.0 Purpose

The purpose of this Ordinance is to regulate Wind Turbine Generators to protect and safeguard the health, safety, and general welfare of the citizens of Unity by establishing reasonable and uniform regulations.

3.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution (Municipal Home Rule), 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, etc. seq. (*Comprehensive Planning and Land Use Regulation, or "Growth Management Act"*).

4.0 Conflicts with Other Ordinances, Laws and Regulations

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute from any jurisdiction, the more restrictive provision shall control.

5.0 Validity and Severability

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

6.0 Effective Date

This Ordinance shall become effective upon the date of its passage.

7.0 Applicability

This Ordinance applies to any wind turbine classified as a Type 3 or Type 4 turbine in Section 10 that is the subject of a permit or license application pending before, or filed with the Town of Unity, after the effective date of the Ordinance. NOTE: Type 1 and Type 2 turbines are covered separately under Unity's Land Use Ordinance.

8.0 Definitions

Aerodynamic Sound – a noise that is caused by the flow of air over and past the blades of a WTG.

Ambient Sound – Ambient sound encompasses all sound present in a given environment, being usually a composite of sounds from many sources near and far. It includes intermittent noise events, such as, from aircraft flying over, dogs barking, wind gusts, mobile farm or construction machinery, and the occasional vehicle traveling along a nearby road. The ambient also includes insect and other

nearby sounds from birds and animals or people. The nearby and transient events are part of the ambient sound environment but are not to be considered part of the long-term background sound.

American National Standards Institute (ANSI) – Standardized acoustical instrumentation and sound measurement protocol shall meet all the requirements of the following ANSI Standards:

ANSI S1.43 Integrating Averaging Sound Level Meters: Type-1 (or IEC 61672-1)
ANSI S1.11 Specification for Octave and One-third Octave-Band Filters (or IEC 61260)
ANSI S1.40 Verification Procedures for Sound Calibrators
ANSI S12.9 Part 3 Procedures for Measurement of Environmental Sound
ANSI S12.18 Measurement of Outdoor Sound Pressure Level
IEC 61400-11 WTG systems –Part 11: Acoustic noise measurements

Anemometer – a device for measuring the speed and direction of the wind.

Applicant – the legal entity, which includes an individual or business entity that seeks to secure a Permit or Operating License under this Ordinance.

A-Weighted Sound Level (dBA) – A measure of over-all sound pressure level designed to reflect the response of the human ear, which does not respond equally to all frequencies. It is used to describe sound in a manner representative of the human ear's response. It reduces the effects of the low with respect to the frequencies centered around 1000 Hz. The resultant sound level is said to be "A-weighted"and the units are "dBA." Sound level meters have an A-weighting network for measuring A-weighted sound levels (dBA) meeting the characteristics and weighting specified in ANSI Specifications for Integrating Averaging Sound Level Meters, S1.43-1997 for Type 1 instruments, and be capable of accurate readings (corrections for internal noise and microphone response permitted) at 20 dBA or lower. In this document dBA means LAeq unless specified otherwise.

Background Sound (L90) – refers to the sound level present at least 90% of the time. Background sounds are those heard during lulls in the ambient sound environment. That is, when transient sounds from flora, fauna, and wind are not present. Background sound levels vary during different times of the day and night. Because WTGs operate 24/7 the background sound levels of interest are those during the quieter periods which are often the evening and night. Sounds from the WTG of interest, near-by birds and animals or people must be excluded from the background sound test data. Nearby electrical noise from streetlights, transformers and cycling AC units and pumps etc., must also be excluded from the background sound test data.

Background sound level (dBA and dBC (as L90)) is the sound level present 90% of the time during a period of observation that is representative of the quiet time for the soundscape under evaluation and with duration of ten (10) continuous minutes. Several contiguous ten (10) minute tests may be performed in one hour to determine the statistical stability of the sound environment.

Measurement periods such as at dusk when bird and insect activity is high or the early morning hours when the 'dawn chorus' is present are not acceptable measurement times. Longer term sound level averaging tests, such as 24 hours or multiple days are not at all appropriate since the purpose is to define the quiet time background sound level. It is defined by the LA90 and LC90 descriptors. It may be considered as the quietest one (1) minute during a ten (10) minute test. LA90 results are valid only when LA10 results are no more than 10 dB above LA90 for the same period. LC10 less LC90 are not to exceed 10 dB to be valid.

The background noise environment consists of a multitude of distant sources of sound. When a new nearby source is introduced the new background noise level would be increased. The addition of a new source with a noise level 10 dB below the existing background would increase the new background 0.4 dB. If the new source has the same noise level as the existing background then the new background is increased 3.0 dB. Lastly, if the new source is 3.3 dB above the existing background then the new background would have increased 5 dB. For example, to meet the requirement of L90A + 5 dB = 31 dBA if the existing quiet nighttime background sound level is 26 dBA, the maximum wind turbine noise immission contribution independent of the background cannot exceed 29.3 dBA Leq at a dwelling. When adding decibels, a 26 dBA background combined with 29.3 dBA from the turbines (without background) results in 31 dBA.

Further, background L90 sound levels documenting the pre-construction baseline conditions should be determined when the ten (10) minute maximum wind speed is less than 2 m/s (4.5 mph) near ground level/microphone location 1.5 m height.

Blade Passage Frequency (BPF) – the frequency at which the blades of a turbine pass a particular point during each revolution (e.g. lowest point or highest point in rotation) in terms of events per second. A three bladed turbine rotating at 28 rpm would have a BPF of 1.4 Hz. [E.g. ((3 blades times 28rpm)/60 seconds per minute = 1.4 Hz BPF)]

Blade Reflection – the intermittent reflection of the sun off the surface of the blades of a Wind Turbine.

C-Weighted Sound Level (dBC) – Similar in concept to the A-Weighted sound Level (dBA) but C-weighting does not de-emphasize the frequencies below 1k Hz as A-weighting does. It is used for measurements that must include the contribution of low frequencies in a single number representing the entire frequency spectrum. Sound level meters have a C-weighting network for measuring C-weighted sound levels (dBC) meeting the characteristics and weighting specified in ANSI S1.43-1997 Specifications for Integrating Averaging Sound Level Meters for Type 1 instruments. In this document dBC means LCeq unless specified otherwise.

Community Owned Wind – a WTG planned with wide community participation that meets any one of the following criteria: 1) a municipality owning 51% or more of the project, 2) the majority of the direct financial benefits of the project accruing to all of the residents of the municipality, exclusive of any tax considerations. Community Owned Wind may include or incorporate consumer-owned transmission and distribution utilities, rural electric cooperatives, municipal electric districts, or other electrical generation and transmission models established by State law to facilitate and encourage local electrical generation. Community Owned Wind does not include partial or minority municipal ownership of WTGs without the municipality or municipalities being the managing partner, and does not include WTGs located in Unity having majority ownership or control by private individuals, private businesses, or non-profit organizations not under direct control of the municipality or municipalities.

Decibel (dB) – A dimensionless unit which denotes the ratio between two quantities that are proportional to power, energy or intensity. One of these quantities is a designated reference by which all other quantities of identical units are divided. The sound pressure level (Lp) in decibels is equal to 10 times the logarithm (to the base 10) of the ratio between the pressure squared divided by the reference pressure squared. The reference pressure used in acoustics is 20 MicroPascals.

DEP Certification – a certification issued by the Department of Environmental Protection pursuant to Title 35-A M.R.S.A. §3456 for a WTG that is subject to this Ordinance.

Emission – Sound energy that is emitted by a noise source (WTG) is transmitted to a receiver (dwelling) where it is immitted (see "immission).

Enforcing Authority – the Code Enforcement Officer (CEO) designated by the Town of Unity. The CEO is responsible for enforcing the standards of this Ordinance after a permit is granted to a WTG.

Frequency – The number of oscillations or cycles per unit of time. Acoustical frequency is usually expressed in units of Hertz (Hz) where one Hz is equal to one cycle per second.

Good Utility Practice – any of the practices, methods and acts with respect to the safe operation of the Wind Turbine or WTG engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation, and maintenance of wind turbines during the relevant period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability and safety.

Height – the total distance measured from the grade of the property as existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point. (See Turbine Height definition below)

Hertz (Hz) – Frequency of sound expressed by cycles per second.

Ice Throw – accumulated ice buildup on the blades of a Wind Turbine that is or can be thrown during normal spinning or rotation.

Immission – Noise immitted at a receiver (dwelling) is transmitted from noise source (WTG) that emitted sound energy (see "emission").

Immission spectra imbalance – The spectra are not in balance when the C-weighted sound level is more than 20 dB greater than the A-weighted sound level. For the purposes of this requirement, the A-weighted sound level is defined as the long-term background sound level (LA90) +5 dBA. The C-weighted sound level is defined as the LCeq measured during the operation of the wind turbine operated so as to result in its highest sound output. A Complaint Test provided later in this document is based on the immission spectra imbalance criteria.

Infra-Sound – sound with energy in the frequency range of 0-20 Hz is considered to be infra-sound. It is normally considered to not be audible for most people unless in relatively high amplitude. However, there is a wide range between the most sensitive and least sensitive people to perception of sound and perception is not limited to stimulus of the auditory senses. The most significant exterior noise induced dwelling vibration occurs in the frequency range between 5 Hz and 50 Hz. Moreover, levels below the threshold of audibility can still cause measurable resonances inside dwelling interiors. Conditions that support or magnify resonance may also exist in human body cavities and organs under certain conditions. Although no specific test for infrasound is provided in this document, the test for immission spectra imbalance will limit low frequency sound and thus, indirectly limit infrasound. See low-frequency noise (LFN) for more information.

Low Frequency Noise (LFN) – refers to sounds with energy in the lower frequency range of 20 to 200 Hz. LFN is deemed to be excessive when the difference between a C-weighted sound level and an

A-weighted sound level is greater than 20 decibels at any measurement point outside a residence or other occupied structure.

Measurement Point (MP) – location where sound measurements are taken such that no significant obstruction blocks sound from the site. The Measurement Point should be located so as to not be near large objects such as buildings and in the line-of-sight to the nearest turbines. Proximity to large buildings or other structures should be twice the largest dimension of the structure, if possible. Measurement Points should be at quiet locations remote from street lights, transformers, street traffic, flowing water and other local noise sources.

Measurement Wind Speed – For measurements conducted to establish the background noise levels (LA90 10 min, LC90 10 min, and etc.) the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 2 m/s (4.5 mph) for valid background measurements. For valid WTG noise measurements conducted to establish the post-construction sound level the maximum wind speed, sampled within 5m of the microphone and at its height, shall be less than 4m/s (9mph). The wind speed at the WTG blade height shall be at or above the nominal rated wind speed and operating in its highest sound output mode. For purposes of enforcement, the wind speed and direction at the WTG blade height shall be selected to reproduce the conditions leading to the enforcement action while also restricting maximum wind speeds at the microphone to less than 4 m/s (9 mph).

For purposes of models used to predict the sound levels and sound pressure levels of the WTG to be submitted with the Application, the wind speed shall be the speed that will result in the worst-case LAeq and LCeq sound levels at the nearest non-participating properties to the WTG. If there may be more than one set of nearby sensitive receptors, models for each such condition shall be evaluated and the results shall be included in the Application.

Mechanical Noise – sound produced as a byproduct of the operation of the mechanical components of a WTG(s) such as the gearbox, generator and transformers.

Meteorological Tower (MET Tower) – a meteorological tower used for the measurement of wind speed.

Mitigation Waiver – a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance. A parcel in which the landowner has entered into such an agreement becomes a Participating Parcel.

Nacelle – the frame and housing at the top of the tower that encloses the gearbox and generator.

Nameplate Capacity – the electrical power rating of an individual wind turbine as certified by the manufacturer and normally expressed in watts, kilowatts (kW), or megawatts (MW).

Noise – any unwanted sound. Not all noise needs to be excessively loud to represent an annoyance or interference.

Non-participating Landowner – any landowner other than a Participating Landowner or the owner of a Project Parcel.

Notification Area – the entire land base within two (2) miles, measured horizontally from the Project Boundary. All landowners with any part of their property within the notification area, or residents living within the notification area must be notified as specified in the Ordinance.

Occupied Building – any structure that is, or is intended to be, occupied by persons. This includes, but is not limited to dwellings, places of business, places of worship, and schools.

Operational License – a license or a license renewal issued by the Planning Board to operate a WTG in accordance with this Ordinance.

Owner/operator – the person or entity with legal ownership of the WTG, including successors and assigns, that has the authority and responsibility to operate the WTG on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.

Participating Landowner – any person who holds title in fee to a Participating Parcel. .

Participating Parcel – any parcel of real estate in which the owner has entered into a Mitigation Agreement. A Project Parcel shall not be considered a Participating Parcel.

Permitting Authority – the Planning Board, designated as responsible for conducting the review of WTG applications.

Person – an individual, corporation, partnership, firm, organization or other legal entity.

Project Boundary – the external boundary of the WTG development, which would contain all WTG(s) and related equipment that could generate noise, shadow flicker, or ice throw.

Project Parcel – any parcel(s) of real estate lying in part or in whole within the Project Boundary.

Property Line – the recognized and mapped property parcel boundary line.

Qualified Independent Acoustical Consultant – Qualifications for persons conducting baseline and other measurements and reviews related to the application for a WTG or for enforcement actions against an operating WTG include, at a minimum, demonstration of competence in the specialty of community noise testing. An example is a person with Full Membership in the Institute of Noise Control Engineers (INCE). There are scientists and engineers in other professional fields that have been called upon by their local community for help in the development of a WTG Noise Ordinance. Many of these scientists and engineers have recently spent hundreds of hours learning many important aspects of noise related to the introduction of WTG into their communities. Then with field measurement experience with background data and wind turbine noise emission, they have become qualified independent acoustical consultants for WTG siting. Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this document. The Independent Qualified Acoustical Consultant can have no financial or other connection to a WTG developer or related company.

Scenic or Special Resource – a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. §3451(9), any site registered in the National Registry of Historic Places, or a scenic or special resource of local significance identified as such.

Setback – the minimal allowable horizontal distance as measured from the Project Boundary to a defined point (e.g. a property line or a road).

Setback Area – the entire land base that falls within a specified setback.

Shadow Flicker – alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object.

Sight Line Representation – a line depicted in profile extending from an observer's eye to the lowest point of a viewed tower.

Sound – A fluctuation of air pressure which is propagated as a wave through air

Sound Power – The total sound energy radiated by a source per unit time. The unit of measurement is the watt. Abbreviated as Lw. This information is determined for the WTG manufacturer under laboratory conditions specified by IEC 61400-11 and provided to the local developer for use in computer model construction. There is known measurement error in this test procedure that must be disclosed and accounted for in the computer models. Even with the measurement error correction it cannot be assumed that the reported Lw values represent the highest sound output for all operating conditions. They reflect the operating conditions required to meet the IEC 61400-11 requirements. The lowest frequency is 50 Hz for acoustic power (Lw) requirement (at present) in IEC 61400-11. This Ordinance requires wind turbine certified acoustic power (Lw) levels at rated load for the total frequency range from 6.3 Hz to 10k Hz in one-third octave frequency bands tabulated to the nearest 1 dB. The frequency range of 6.3 Hz to 10k Hz shall be used throughout this Ordinance for all sound level modeling, measuring and reporting.

Sound Pressure – The instantaneous difference between the actual pressure produced by a sound wave and the average or barometric pressure at a given point in space.

Sound Pressure Level (SPL) – 20 times the logarithm, to the base 10, of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micronewtons per square meter. In equation form, sound pressure level in units of decibels is expressed as SPL (dB) = 20 log p/pr.

Spectrum – The description of a sound wave's resolution into its components of frequency and amplitude. The WTG manufacturer is required to supply a one-third octave band frequency spectrum of the wind turbine sound emission at 90% of rated power. The published sound spectrum is often presented as A-weighted values but C-weighted values are preferred. This information is used to construct a model of the wind farm's sound immission levels at locations of interest in and around the WTG. The frequency range of interest for wind turbine noise is approximately 6 Hz to 10k Hz.

Statistical Noise Levels – Sounds that vary in level over time, such as road traffic noise and most community noise, are commonly described in terms of the statistical exceedance levels LNA, where LNA is the A-weighted sound level exceeded for N% of a given measurement period. For example, L10 is the noise level exceeded for 10% of the time. Of particular relevance, are: LA10 and LC10 the noise level exceeded for 10% of the ten (10) minute interval. This is commonly referred to as the average maximum noise level. LA90 and LC90 are the A-weighted and C-weighted sound levels exceeded for 90% of the ten (10) minute sample period. The L90 noise level is defined by ANSI as the long-term background sound level (i.e. the sounds one hears in the absence of the noise source under consideration and without short term or near-by sounds from other sources), or simply the "background level." Leq is the A or C-weighted equivalent noise level (the "average" noise level). It is defined as the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound.

Structure – the total footprint of all of the physical attributes of the entire WTG as defined in Title 38 M.R.S.A. § 482.

Tonal sound or tonality – Tonal audibility. A sound for which the sound pressure is a simple sinusoidal function of the time, and characterized by its singleness of pitch. Tonal sound can be simple or complex.

Tower – the freestanding structure on which the wind measuring or energy conversion system is mounted.

Turbine Height – the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Turbine Generators (WTG) – equipment that converts and then transfers energy from the wind into usable forms of electrical energy and includes all related and supporting items including but not limited to all buildings, structures, electrical equipment, substations, transmission lines, access roads, parking lots, areas to be stripped or graded, and areas to be landscaped or screened.

Wind Turbine – a wind energy conversion system that converts wind energy into electricity through the use of a WTG, and includes the nacelle, rotor, tower and pad transformer if any.

9.0 Classification of Wind Turbines and Meteorological Towers

For the purpose of clarification, all WTGs are classified according to the following definitions:

9.1 Wind Turbine Classifications:

9.1.1 Type 1 – Small Wind Turbine means a single wind turbine with a nameplate capacity less than 10 kW, and a turbine height less than 100 feet. This ordinance does not apply to these.

9.1.2 Type 2 – Intermediate Wind Turbine means a single wind turbine with a nameplate capacity less than 100 kW, and a turbine height less than 150 feet.. This ordinance does not apply to these.

9.1.3 Type 3 – Large Wind Turbine means any wind turbine with a nameplate capacity between 100 kW and 1 MW, and with a turbine height of at least 150 feet but less than 300'.

9.1.4 Type 4 – Industrial Wind Turbine means any wind development where one or more wind turbines has a nameplate capacity of greater than or equal to 1 MW, or a turbine height greater than or equal to 300'.

9.2 Meteorological Towers (MET Towers)

MET Towers shall be permitted under Unity's Land Use Ordinance.

10.0 Permit and Operational License Requirement

10.1 Permit Requirement

10.1.1 A permit is required for each WTG built in the Town of Unity after the effective date of this Ordinance. However, single phase WTGs of less than 150 feet and less than 100 kW name plate capacity are not regulated under this Ordinance.

10.1.2 The Planning Board will combine , to the fullest and most practical extent possible, and pursuant to Section 26.0, all Wind Turbines held under common or related ownership into a single WTG. With the exception of Projects owned by the Town of Unity, separate corporate legal structures under common or joint ownership, or under common or joint

control, will be deemed to be a single project for purposes of permit and licensing regardless of separate corporate legal ownership.

10.1.3 Receipt of a permit under this Ordinance does not relieve the Owner/operator from the responsibility to obtain any other such permits or approvals as required under the Town of Unity Land Use Ordinance or pursuant to other State or Federal jurisdiction.

10.2 Operational License

An Operational License is required for the operation of all WTGs. Applications for a WTG Operational License shall be submitted to the Planning Board.

10.2.1 Where an Applicant is applying for a new or amended WTG Permit, the application for a WTG Operating License, or amended license, shall be submitted to the Planning Board in conjunction with the Permit application, and shall include the application form and the separate fee specified in Section 10.2.10.

10.2.2 Where an Applicant is applying for a WTG Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WTG Permit and the fee specified in Section 10.2.10.

10.2.3 An initial Operational License shall be valid for one year. Each Operational License thereafter shall be valid for five years.

10.2.4 The granting of an Operational License is conditional upon the following criteria:

10.2.4.1 Demonstration by the Applicant of compliance with performance standards of the Ordinance.

10.2.4.2 For the initial Operational License, the Wind Turbine Project must successfully pass an inspection for structural and operational integrity conducted by a Maine licensed professional engineer chosen by the Permitting Authority, and attended by the Enforcing Authority. The inspection shall be conducted after construction is completed but before operations begin. Success will be demonstrated by submission of a copy of the engineer's inspection report to the Planning Board. If the report specifies that repairs, maintenance or changes to safety procedures are necessary, the owner shall provide the Enforcing Authority with proof that the repairs have been completed, a written schedule for any recommended maintenance, and documentation of any updated safety procedures.

10.2.4.3 Where there is no change of Ownership or operator, the inspection procedure and criteria specified in Section 10.2.4.2 shall be completed three months prior to the expiration of the initial Operational License and six months prior to the expiration of any subsequent Operational License.

10.2.5 Applications for Operational License renewals where there is no change of ownership of operator shall be submitted to the Planning Board three months prior to their expiration of the initial Operational License and six months prior to the expiration of any subsequent Operational License.

10.2.6 An Operational License shall automatically terminate upon transfer of ownership or operation of the WTG. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WTG. The application for renewal of the Operational License in the case of transfer of ownership or operation shall include the following items:

10.2.6.1 The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different

10.2.6.2 An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time

10.2.6.3 Evidence of the Applicant's technical and financial ability to operate the WTG in accordance with this Ordinance, the Site Permit, and the Operational License

10.2.6.4 For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant

10.2.6.5 An updated safety plan in accordance the requirements of Section 14.2 .

10.2.6.6 An updated fire prevention and emergency response plan in accordance with the requirements of Section 15.6.1;

10.2.6.7 An updated emergency shutdown plan in accordance with the requirements of Section 21.4;

10.2.6.8 An updated decommissioning and site restoration plan in accordance with the requirements of Section 22.0;

10.2.6.9 Updated liability insurance information in accordance with the requirements of Section 14.4;

10.2.6.10 Updated Real Estate Property Value Assurance Plan in accordance with the requirements of Section 23.0;

10.2.6.11 A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections.

10.2.7 An Operational License shall automatically terminate upon any amendment to a permit.

10.2.8 Failure to comply with the provisions of this Ordinance may result in the suspension or revocation of the Operational License pursuant to Section 21.0;.

10.2.9 An Operational License shall be deemed abandoned if the WTGs operation has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment.

10.2.10 Fees.

10.2.10.1 The application fee for an Operational License is $1,000.00.

10.2.10.2 The annual fee for an existing Operational License is $250.00.

11.0 Permitting Authority

11.1 The Town of Unity Planning Board is authorized to review all WTG applications and may approve, reject or conditionally approve such applications in accordance with the standards of the Ordinance.

11.2 The Maine Department of Environmental Protection (DEP) may be required to review WTG applications. The Planning Board shall consider, at a minimum and to the extent applicable, pertinent findings in the DEP certification when making its determination.

11.3 The following types of permits require final approval by a vote of the residents of the Town of Unity:

11.3.1 Any WTG to be built on property owned by the Town

11.3.2 Any WTG partially or totally owned by the Town.

12.0 Standards for Setbacks, Noise, Shadow Flicker, and Mitigation Waivers

This section addresses the interrelated standards of setbacks, noise, shadow flicker and mitigation waivers and applies to all WTGs.

Setbacks provide a number of important Ordinance functions, including but not limited to: 1) working in conjunction with noise standards as a primary means of mitigating potential and unforeseen noise complaints; 2) providing for public safety in the event of a catastrophic turbine failure or ice throw; 3) mitigating the effects of shadow flicker from larger turbines

12.1 <u>Setback Standards</u>

12.1.1 Setback to Non-participating Landowner Property Lines – WTGs shall not be located any closer than 5,280 feet (or one mile) from the property lines of non-participating landowners. . Land owners may waive this setback with a written Mitigation Waiver. (See Section 12.4).

12.1.2 Setback to Utility Lines - WTGs shall not be located any closer than 1,600 feet from any above ground utility lines, excluding those erected to serve the WTG, unless agreed to in writing by the affected utility companies.

12.1.3 Setback to Public Roads - WTGs shall not be located any closer than 1,600 feet from any public road.

12.1.4 Setback to Scenic or Special Resource - WTGs shall not be located any closer than 2,400 feet from any scenic or special resource.

12.1.5 Setback to Occupied Building of Participating Landowner - WTGs shall not be located any closer than 1,600 feet from any occupied building owned by a Participating Landowner..

12.2 <u>Noise Standards</u>

For all wind turbines, the primary guiding principle is that their operation must not be disruptive at any time of day or night. Current sound limitations in the state of Maine regulating noise from WTG reflect sound limits applicable to urban residential and urban mixed neighborhoods instead of the deep quiet of rural areas such as Unity to which this Ordinance pertains.

12.2.1 Principles Governing Sound Measurements

12.2.1.1 Section 27.0 applies in addition to relevant paragraphs of Section 28.0. Procedures in Section 27.0 and Section 28.0 are mandatory and additional to the relevant application procedures.

12.2.1.2 Sound measurements must be made to all non-participating property lines within and up to two (2) miles measured horizontally from the Project Boundary.

12.2.1.3 All sound measurements will be filtered for both dBA and dBC.

12.2.1.4 All sound measurements before construction, and after will be made by a Professional Engineer who is a Full Member of the Institute of Noise Control Engineering (INCE).

12.2.1.5 This engineer must be an independent contractor to the Town of Unity, and have no conflicts of interest with the applicant.

12.2.2 Noise Limits on Property of Non-participating Landowners

12.2.2.1 Post-construction audible noise levels (dBA) on any property belonging to a Non-participating Landowner will not exceed 40 dBA at night (7 pm to 7 am) and 50 dBA during the day (7 am to 7 pm) Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4.)

12.2.2.2 Post-construction low frequency noise levels (dBC) on any property belonging to a Non-participating Landowner will not exceed:

1. 20 decibels (measured as dBC) above the pre-development ambient noise level (measured as dBA).
2. A maximum of 50 dBC.

Property owners may waive this noise restriction with a written Mitigation Waiver. (See Section 12.4.)

12.2.2.3 Noise measurement standards and procedures are described in Section 27.0 .

12.2.3 Violations and Enforcement

12.2.3.1 Sound Regulations Compliance. A WTG shall be considered in violation of its permit unless the applicant demonstrates that the project complies with all sound level limits using the procedures specified in this ordinance. Sound levels in excess of the limits established in this ordinance shall be grounds for the Town of Unity to order immediate shut down of all non-compliant Wind Turbine units.

12.2.3.2 A serious noise violation is defined as three (3) verified noise complaints attributed to the operation of a Wind Turbine within a period of one month or less with a measurable noise level greater than 10 dBA above pre-construction ambient noise levels or 50 dBC inside or at an Occupied Building. For serious violations the Owner/operator will respond within five (5) days of the complaint. Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town, and will commence within ten working days of the complaint. Testing will be conducted for a minimum of a one-month period according to the measurement standards and procedures in Section

27.0. The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the Wind Turbine. Failure to mitigate the problem will result in the Wind Turbine being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4 .

12.2.3.3 Noise violations not determined to be an emergency pursuant to Sections 12.2.3.1 and 21.4, or not determined to be a serious violation pursuant to Section 12.2.3.2 , shall be managed pursuant to Section 21.6 . Testing, if necessary, will be paid for by the Owner/operator and hired independently by the Town. Testing will be conducted for an appropriate period of time and conducted according to the measurement standards and procedures set forth in Section 27.0 . The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.3 Shadow Flicker and Blade Reflection

12.3.1 WTGs shall be designed and sited so that the amount of shadow flicker and/or blade reflection that falls on the property of a landowner shall not exceed 10 hours per year for any given receptor. Property owners may waive the Shadow Flicker and Blade Reflection restriction with a written Mitigation Waiver. (See Section 12.4.)

12.3.2 Violations and Enforcement

12.3.2.1 A serious shadow flicker or blade reflection violation is defined as: 1) three (3) days of significant nuisance shadow flicker or blade reflection, in any one month falling on a receptor that, if annualized, will be estimated to be more than 10 hours per year; or 2) any complaint of shadow flicker or blade reflection from vehicles on a public road. The predictive annualized calculation shall assume clear weather, but take into account seasonal tracking of the sun. For serious violations the Owner/operator will respond within five (5) days of the complaint. The Owner/operator is responsible for mitigating the problem within ten (10) days from a final determination of any cause attributed to the operation of the WTG. Failure to mitigate the problem will result in the WTG being declared unsafe and emergency shutdown procedures will be implemented per Section 21.4.

12.3.2.2 Shadow flicker and blade reflection not determined to be a serious violation pursuant to Section 12.3.2.1, shall be managed pursuant to Section 21.6 . Field verification and modeling, if necessary, will be paid for by the Owner/operator and hired independently by the Town. The Owner/operator is responsible for mitigating the problem within 30 days from a final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

12.4 Mitigation Waivers

Non-participating Landowners may modify or waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the Applicant and the Non-participating Landowner. Copies of executed Mitigation Waivers must be included with the application. The Mitigation Waiver must be recorded in the Register of Deeds

office appropriate for the affected property. The deed must advise all subsequent owners of the burdened property.

12.4.1 The requirements permitted in Mitigation Waivers are:

12.4.1.1 Property line setbacks – Section 12.1.1.

12.4.1.2 Audible noise levels – Section 12.2.2.1 .

12.4.1.3 Low frequency noise levels – Section 12.2.2.2 .

12.4.1.4 Shadow Flicker and Blade Reflection – Section 12.3.1.

12.4.1.5 No Mitigation Waivers on other requirements set forth in this Ordinance are permitted.

12.4.2 The Mitigation Waiver must contain a separate paragraph for each specific requirement being modified or waived. Each paragraph must specify:

12.4.2.1 The requirement as set forth in this ordinance.

12.4.2.2 The modified requirement to which the affected property owner is now agreeing.

13.0 General Standards

All WTGs shall comply with the appropriate Standards of this Ordinance. No WTG shall cause unreasonable health or safety conditions.

13.1 Building Codes. All components of the WTG shall conform to local, state and national building codes.

13.2 Electrical Components and Interconnections. All electrical components of the Wind Turbine and WTG shall conform to relevant and applicable local, state, and national codes.

13.3 Controls and Brakes. Each Wind Turbine shall be equipped with a redundant braking system that includes both aerodynamic over-speed controls (including variable pitch, tip, and other similar systems) and mechanical brakes. Mechanical brakes shall operate in fail-safe mode. Stall regulation shall not be considered a sufficient braking system for over-speed protection.

13.4 Blade Clearance. The minimum distance between the ground and all blades of a Wind Turbine shall be 100 feet as measured at the lowest arc of the blades.

13.5 Signal Interference. WTGs will be designed and sited to prevent the disruption or loss of radio, telephone, television, or similar signals. (See Section 15.7 .)

13.6 Guy Wires, Blade Feathering and Bird Sensing Radar. Monopole towers with no guy wires are preferred to minimize bat and migratory bird fatalities, and bird fatalities in general. To further minimize such fatalities, wind turbines will be designed so that turbine blades are feathered. In addition, wind turbines will be equipped with bird sensing radar, and bird flight diverters will be installed on any tower with guy wires.

14.0 Appearance and Safety Standards

14.1 Appearance and Visibility Standards

14.1.1 Wind Turbines shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the WTG.

14.1.2 The design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the site to the natural setting and existing environment.

14.1.3 Wind Turbines shall not be artificially lighted, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the WTG. Additional lighting standards must be met for Wind Turbines (see Section 15.2.7).

14.1.4 Wind Turbines shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, emergency contact information, and for any appropriate warnings.

14.1.5 Each Wind Turbine shall be located to reasonably maximize the effectiveness of existing vegetation, structures and topographic features to screen views of the Wind Turbine(s) from the property Non-participating Landowners, Scenic Resources and public roads.

14.1.6 When existing features do not screen views of a Wind Turbine from the property of Non-participating Landowners, Scenic Resources and public roads, screening shall be provided, where feasible and effective, through the planting of trees and/or shrubs. Generally, such plantings should be of native varieties.

14.2 Safety Standards

14.2.1 Design. The design of the Wind Turbines and WTG shall conform to applicable industry standards, including those of the American National Standards Institute, (ANSI) and shall comply with standards promulgated by Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies or other similar certifying organizations appropriate for the turbines' size and classification.

14.2.2 Access. All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to fifteen (15) feet above ground surface.

14.2.3 Warnings. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

14.3 Inspections

Wind Turbines shall be inspected after construction is completed but before becoming operational, and at least every year thereafter, for structural and operational integrity by a Maine licensed professional engineer chosen by the Permitting Authority, and the Owner/operator shall submit a copy of the inspection report to the Enforcing Authority. If such report recommends that repairs or maintenance are to be conducted, the owner shall provide the Enforcing Authority a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance. The Enforcing Authority shall participate in each inspection.

14.4 Liability Insurance

The Applicant shall maintain a current general liability policy for the WTG that covers bodily injury and property damage in an amount commensurate with the scope and scale of the Turbine or Project. The Applicant or its designee shall provide certificates of insurance to the Planning Board, and provide a copy of each annual renewal to the Planning Board. (See Section 28.2.35)

15.0 Financial, Environmental and Operational Standards

15.1 Financial Performance Standards

The Applicant must demonstrate that the WTG is financially viable and that the Owner/operator has the financial ability to complete the project.

15.2 Environmental Impact Standards

15.2.1 Unity Site Plan Review Ordinance. Proposed WTGs shall meet the applicable standards of the Unity Site Plan Review Ordinance

15.2.2 Environmentally Sensitive Area. The plan for the WTG will reflect the natural capabilities of the site to support development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, watersheds, floodplains, significant wildlife habitats, fisheries, habitat for rare or endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers will be maintained and preserved to the maximum extent. The Applicant shall demonstrate appropriate measures for protecting these resources, including both during construction and post construction.

Given that areas within the Town of Unity are wildlife management areas and that protected bird species and migratory birds are regularly observed within the boundaries of the Town, the applicant must comply with the "Guidelines for Wind Project Ecological Study" by the Maine Department of Environmental Protection and Maine Department of Inland Fisheries and Wildlife.

15.2.3 Wildlife Protection

15.2.3.1 The Applicant will demonstrate that the WTG will not have a significant adverse effect on area wildlife and wildlife habitat. Such analysis shall include but not be limited to adverse effects to birds, bats, game animals, and habitat fragmentation. In addition, the Applicant must demonstrate that the WTG will have no significant adverse effect on rare, threatened or endangered wildlife. The wildlife and habitat analysis must include appropriate pre-construction field studies and at least three sets of corresponding post-construction field studies conducted at periodic intervals within 3 years after the Wind Turbines become operational. These studies will be conducted by a qualified wildlife biologist hired by the Town of Unity and paid for by the Applicant.

15.2.3.2 If the post-construction field studies demonstrate significant adverse effect to birds, bats, game animals or habitat fragmentation, the Town, the Owner/operator and the Maine Department of Inland Fisheries and Wildlife (MDIFW) shall develop an appropriate mitigation plan. The Owner/operator will be responsible for the full cost of implementing the mitigation plan under the supervision of MDIFW.

15.2.4 Raptor Habitat. To the extent practicable, the creation of artificial habitat for raptors or raptor prey shall be minimized. In making its determination under this subsection the Planning Board shall consider comments and recommendations, if any, provided by the Maine Department of Inland Fisheries and Wildlife.

15.2.5 Erosion Control. The WTG will be designed, constructed and maintained in accordance with accepted erosion and sedimentation control methods. The acceptability of the proposed methods will be judged utilizing the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003. Whenever sedimentation is caused by stripping vegetation or grading it shall be the responsibility of the Owner/operator to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at the Owner/operator's expense as quickly as possible.

15.2.6 Groundwater Protection. The WTG will not adversely affect the quality or quantity of groundwater. The Applicant shall have to demonstrate to the Planning Board's satisfaction that there are no unusual risks to the groundwater, including underground rivers, created by the project. The Board may require as a condition of permit approval, that spill prevention and control measures be installed, and that all activities involving potentially permeable pollutants, including at delivery and transfer points, be conducted under cover and over an impervious surface surrounded by dikes. If a Wind Turbine foundation is proposed in a bedrock area, a baseline of all wells, springs, and certified public water sources within a two-mile radius of the foundation shall be established. If degradation or contamination occurs, permanent remedies shall be the responsibility of the Owner/operator.

15.2.7 Light Pollution. The WTG shall be designed to minimize the amount of nighttime light pollution. The Applicant shall provide a plan showing lighting on and around all Wind Turbines and associated facilities. Lighting on Wind Turbines shall be illuminated to Federal Aviation Administration (FAA) minimal standards using only red rather than white lights, if possible. The minimum number of Wind Turbines will be illuminated, per FAA rules. Lighting shall be shielded from ground view to FAA maximum standards.

15.2.8 Relation to DEP Certification and Permitting. If DEP has issued a Site Location of Development Act permit for a WTG there is a rebuttable presumption that the development meets the requirements of Sections 15.2.2 and 15.2.3. If a DEP Site Location of Development permit is required, the Planning Board will require the permit to be issued before the application is deemed complete and may take the recommendations under advisement to determine compliance with Sections 15.2.2 and 15.2.3.

15.3 Scenic or Special Resource Standards

15.3.1 Except as otherwise provided in this subsection, if a WTG is proposed for a location in, or is visible from, a Scenic or Special Resource, the Applicant shall provide the Planning Board with a visual impact assessment that addresses the evaluation criteria in subsection 15.3.3. There is a rebuttable presumption that a visual impact assessment is not required for those portions of a WTG that are located more than 3 miles, measured horizontally, from a Scenic or Special Resource. The Planning Board may require a visual impact assessment for portions of the WTG located more than 3 miles and up to 8 miles from a Scenic Resource if it finds that a visual impact assessment is needed to determine if there is the potential for significant adverse effects on the Scenic or Special Resource. Any interested Person must submit

information intended to rebut the presumption to the Planning Board within 30 days of acceptance of the application as complete. The Planning Board shall determine if the presumption is rebutted based on a preponderance of evidence in the record.

15.3.2 The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 15.3.3, whether the WTG significantly compromises views from or of a designated Scenic or Special Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic or Special Resource.

15.3.3 In making its determination pursuant to subsection 15.3.2, and in determining whether an Applicant for a WTG located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance with the Unity Land Use Ordinance, the Planning Board shall consider:

15.3.3.1 The significance of the potentially affected Scenic or Special Resource;

15.3.3.2 The existing character of the surrounding area;

15.3.3.3 The expectations of the typical viewer;

15.3.3.4 The WTG Project's purpose and the context of the proposed activity;

15.3.3.5 The extent, nature and duration of potentially affected public uses of the Scenic or Special Resource and the potential effect on the public's continued use and enjoyment of the Scenic or Special Resource; and

15.3.3.6 The scope and scale of the potential effect of views of the WTG on the Scenic or Special Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic or Special Resource, the distance from the Scenic or Special Resource and the effect of prominent features of the WTG Project on the landscape.

15.4 Construction/Design Standards

15.4.1 General Construction Standards. All Wind Turbines shall be constructed in compliance with Good Utility Practice for Wind Turbines. In the event that, after inspection by a qualified expert in Good Utility Practice, the Town concludes that any of the Wind Turbines were not constructed in compliance with Good Utility Practice or constitutes a danger to persons or property, then upon notice being provided, the Owner/operator shall have 90 days to bring the non-compliant Wind Turbine(s) into compliance with such standards. If 90 days is insufficient time to cure the non-compliance, the Owner/operator shall present a plan to the Town describing the reason for the delay and the time frame for the cure to be put in place.

15.4.2 Electrical Design Standard. On-site power and transmission lines shall be placed underground to a depth consistent with Good Utility Practice. Wind Turbines shall be engineered according to Good Utility Practice to prevent transient ground currents and stray voltage. The Applicant shall demonstrate that there will be no significant adverse effect upon the environment or individuals from transient ground currents and stray voltage.

15.4.3 Transmission Line Standards. The Applicant must, in conjunction with the Maine Public Utility Commission (PUC), prepare a written report documenting all anticipated changes, modifications or upgrades to the public utility grid within the Town of Unity due to the WTG. The written report must include necessary approvals from the PUC, proof of leases or required right of ways for transmission lines, and any alternatives to the final plan considered. The report must document the residual capacity remaining in the local utility grid that is available for use by other local electrical generating projects.

15.4.4 Geological Stability. Wind Turbines shall not be constructed on areas of geological instability. The Applicant shall demonstrate that this standard is met.

15.5 Operational Performance Standards

15.5.1 General Performance Standards. All Wind Turbines shall be operated and maintained consistent with Good Utility Practice for comparable facilities.

15.5.2 Repairs and Maintenance. The Owner/operator shall be required to repair and replace the WTG and associated equipment consistent with Good Utility Practice as needed to keep the Wind Turbine and Associated Facilities in good repair and operating condition.

15.6 Public Safety and Health Standards

15.6.1 Fire Protection. The Applicant shall prepare a plan in consultation with the Town of Unity fire department as part of the permitting process. The plan shall address all activities at the WTG from the start of construction through the end of power generation and the final removal and restoration of the site, and shall describe a response plan to address all identified potential fire, rescue and hazardous materials scenarios. The Owner/operator shall ensure that the WTG complies with the following control and prevention measures and assumes responsibility for all associated incremental costs:

15.6.1.1 Use of fireproof or fire resistant building materials and buffers or fire retardant landscaping around WTGs as appropriate.

15.6.1.2 Incorporation of a self-contained fire protection system to address nacelle fires including but not limited to redundant fire quenching systems in the nacelle..

15.6.1.3 Maintenance of firebreak areas as appropriate, cleared of vegetation and maintained as a fire/fuel break as long as the Wind Turbine is in operation.

15.6.1.4 Provision for any additional fire fighting or rescue personnel, services, training, materials, or vehicles as may be required to address any emergency related to the WTG that is beyond the current capabilities and duties of the local fire department.

15.6.2 Hazardous Wastes. The Owner/operator shall be responsible for compliance with all ordinances, state regulations and laws applicable to the generation, storage, cleanup, and disposal of hazardous wastes generated during any phase of the project's life. The Town of Unity may require that a plan be submitted by the Applicant demonstrating the ability and intent to meet such compliance.

15.6.3 Blasting. Owner/operator shall not undertake any blasting in connection with the construction of the WTG unless Applicant has notified the Town and submitted a blasting plan consistent with applicable laws and regulations. The plan must be reviewed and

approved by the Planning Board before any blasting may take place. No blasting shall be undertaken without 48 hour notification to all residents within a two mile radius, measured horizontally, from the blasting area. All blasting operations will cover the blasting area with mattresses to prevent debris from falling on nearby properties.

15.7 Communications and Electromagnetic Interference Standards

15.7.1 WTGs shall be sited and operated so that they do not interfere with emergency (fire, police/sheriff, ambulance) radio two-way communications (base stations, mobile, and hand held radios, including digital) and/or paging, television, telephone (including cellular and digital), microwave, satellite (dish), navigational, internet or radio reception to neighboring areas. The Owner/operator of the project shall be responsible for the full cost of any remediation necessary to provide equivalent alternate service or correct any problems, including relocation or removal of the Wind Turbine, and any and all related transmission lines, transformers, and other components related to the interference.

15.7.2 The Owner/operator of the WTG shall respond within one day to any request for communications interference investigation by any emergency agency (fire, police/sheriff, ambulance). Testing will commence within two days of the request. The Owner/operator is responsible for mitigating within two days from the determination of interference attributed to the operation of the Wind Turbine.

15.7.3 The Owner/operator of the WTG shall respond within five business days to any request for communications interference investigation by a property owner or resident within a three-mile radius, measured horizontally, of the WTG. Testing will commence within five business days of the request. The owner/operator is responsible for mitigating within ten business days from the determination of interference attributed to the operation of the Wind Turbine.

15.8 Ground Transportation Standards

15.8.1 The Applicant shall identify all public ways to be used within the Town of Unity to transport equipment and parts for construction, operation or maintenance of the Wind Turbines.

15.8.2 A qualified third party engineer, hired by the Planning Board and paid for by the Applicant, shall document road conditions prior to construction. The engineer shall document road conditions again thirty (30) days after construction is complete or as weather permits.

15.8.3 The Town of Unity may bond the road(s) in compliance within state regulations.

15.8.4 Any road damage caused by the Applicant or its contractors shall be promptly repaired at the Owner/operator's expense.

15.8.5 The Applicant shall demonstrate that it has appropriate financial insurance to ensure the prompt repair of damaged roads.

15.9 Plan and Risk Assessment for Road and Property Use

15.9.1 An Application for a WTG Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

15.9.1.1 A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WTG, including a description of how and when such ways and property will be used or affected.

15.9.1.2 A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.

15.9.1.3 A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WTG, including: the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.

15.9.1.4 A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WTG.

15.9.1.5 Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WTG.

15.9.2 The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WTG in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WTG.

15.9.3 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

15.9.4 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate to secure any obligation under the agreement, including but not limited to any obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities.

15.10 <u>Reporting Requirements</u>:

15.10.1 <u>Extraordinary Events.</u>. The Owner/operator shall notify the Town of any extraordinary event within 24 hours of that event,. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the public health and safety of the Town or its residents.

Additionally, the Owner/Operator will provide the Town and its residents with a hotline phone number for reporting of any such extraordinary events to a manned facility on call 24 hours a day, 365 days a year.

15.10.2 Change of Owner/operator. The Owner/operator will notify the Town of Unity of a pending change of ownership in writing 30 days before the effective change. New owners will apply for a transfer of permits to be reviewed by the Town Of Unity and will assume all the obligations of the selling Owner/operator.

15.10.3 Reports from annual safety inspections pursuant to Section 14.3.

15.10.4 Annual proof of liability insurance pursuant to Section 14.4.

16.0 Application Submission Requirements and Procedural Time Frames

16.1 Pre-application Meeting

A pre-application meeting with the Planning Board will be scheduled at a regularly scheduled public Planning Board meeting. At the meeting the Applicant will review the type and scope of the project and the Planning Board will review Ordinance Standards and submission requirements. The Planning Board will establish an application file at this time.

16.2 Site Inspection

The Planning Board reserves the right to establish a time for a site inspection at any time during the application process. Planning Board and Applicant will set a mutually agreeable time for the Planning Board to inspect the site. Site visits will normally be postponed if there is more than one foot of snow on the ground. The site inspection will be treated as a public meeting of the Planning Board with appropriate notices given to the community. While the Planning Board may set additional requirements for the site inspection at the pre-application meeting, the Applicant shall, at minimum, flag the location of the proposed WTG and relevant property boundaries. The Applicant or a representative will accompany the Planning Board to describe the project and answer any questions.

16.3 First Public Hearing

The Planning Board will schedule a public hearing to be held within 60 days of the pre-application meeting process for the WTG.

16.4 Notice to Abutters and residents within the Notification Area

In addition to any required public notices for the site inspection and first public hearing, the Planning Board will prepare a notice to property owners and residents within the Notification Area.. The notice will briefly describe the proposed WTG and notify the recipient of the dates, times and places of the site inspection and first public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.5 Determine Submission Requirements

Within 60 days of the pre-application meeting the Planning Board shall inform the Applicant in writing of the submission requirements for the application. The submission requirements for WTGs are listed in Section 28.0. If the Applicant wishes to have any of the submission

requirements waived, the Applicant must make the request in writing to the Planning Board. The Planning Board will notify property owners and residents within the Notification Area. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The Planning Board will send the notice at least 14 days prior to the Planning Board meeting at which the Applicant's request will be considered.

16.6 Application Submission

The Applicant has up to 180 days after the determination of submission requirements to submit a completed application with the required fees to the Town clerk. The application shall be deemed abandoned unless the application has been received within 180 days of the determination of submission requirements. The Town Clerk will notify the Board of Selectmen and forward the application to the Planning Board.

16.7 Completeness Review

The Planning Board will notify the Applicant within 90 days from the date of submission whether the application is complete. Specific studies may be required for a consideration of completeness including but not limited to noise studies, DEP certification and permitting, and environmental impact studies. If the application is deemed to be incomplete the Planning Board shall indicate the additional information needed. The application shall be deemed abandoned unless the Applicant provides the information requested, demonstrates that additional time is needed to complete required studies, or submits in writing the reason for any delay within 30 days from the date of notice indicating the application is incomplete.

16.8 Second Public Hearing

The Planning Board will schedule a second public hearing to be held within 60 days of the determination of completeness of the Application for the WTG.

16.9 Notice to Town of Unity

In addition to any required public notices for the second public hearing, the Planning Board will prepare a notice to all residents and property owners in the Town of Unity and to property owners and residents within the Notification Area. The notice will briefly describe the proposed WTG and notify the recipient of the date, time and place of the second public hearing. The notice will be sent by certified mail with mailing costs paid for by the Applicant. The town will give residents no less than 14 days' notice of such a meeting.

16.10 Final Planning Board Determination

A decision to approve or reject the application, or to approve the application with conditions, will be made by the Planning Board within 60 days from the date of the second public hearing.

16.11 Final Town Approval

Final Town approval is required if the WTG is located on Town property or if the WTG is wholly or partially owned by the Town.

17.0 Professional Services

In reviewing an application for compliance with this Ordinance, the Permitting Authority may retain professional services as necessary to assist with its review, including but not limited to those of an

attorney, engineer, biologist, or land use planner. Within fourteen (14) days of filing an application the Applicant shall deposit in a joint escrow account with the Town the sum listed in Subsection 28.1.2 as partial payment for the appropriate Town expenses in hiring consultants and experts, as the Permitting Authority shall, at its discretion, deem necessary. If at any time the balance of this fund falls below $5000 for a period of 30 days after notification the application shall be considered to have been withdrawn. The balance of the escrow account shall be returned to the Owner/operator after all expenses have been paid, and after a permit is granted or the Applicant has withdrawn.

18.0 Application Changes

18.1 Throughout the permit process, the Applicant shall promptly notify the Permitting Authority of any changes to the information contained in the permit application.

18.2 Material changes may not be made to a WTG after an application is determined to be complete, without initiating a new application process. Material changes include, but are not limited to, increasing the number of Wind Turbines, increasing the nameplate capacity of the Wind Turbines, increasing Turbine Height, changes to the location of Wind Turbines, or material changes to Associated Facilities. Non-material changes require a permit modification as determined by the Permitting Authority. The Permitting Authority shall have sole discretion for determining what is a material or non-material change.

19.0 Cumulative Effect of Multiple Permits

The Town of Unity reserves the right to limit the total number of WTG permits that are under review for approval at any given time. The Permitting Authority will process no more than one application at any one time, or the deadline for submission and review may be modified correspondingly to reflect the increased workload of multiple permits.

20.0 Appeals

20.1 The Board of Appeals shall have the power 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 Reviewing Authority. 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.

20.2 The Board of Appeals may reverse the decision of the Permitting Authority only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Permitting Authority. The Board of Appeals may only review the record of the proceedings before the Permitting Authority. The Board of Appeals shall not receive or consider any evidence that was not presented to the Permitting Authority, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Permitting Authority's proceedings is inadequate, the Board of Appeals may remand the matter to the Permitting Authority for additional fact finding.

20.3 For the purposes of hearing appeals, at a minimum, all property owners and residents within the Notification Area shall be deemed to have interested party standing. The Appeals Board may grant other individuals interested party standing as special circumstances warrant. All interested parties must be sent notice by certified mail with mailing costs paid for by the Applicant. The

Appeals Board will give interested parties a reasonable and appropriate amount of time to present information and rebuttals.

20.4 A final Town vote as outlined in Section 16.11 shall not be subject to Appeals Board review.

21.0 Complaints/ Violations/ Enforcement

21.1 General Standard. No person, firm or corporation shall violate or fail to comply with or take any action that is contrary to the terms of this Ordinance, or any permit or Operational License issued under this Ordinance, or cause another to violate or fail to comply or take any action which is contrary to the terms of this Ordinance or any permit or Operational License issued under this Ordinance.

21.2 Enforcing Authority. The CEO will serve as the Enforcing Authority for WTGs. The Enforcing Authority will:

21.2.1 Have the authority to conduct investigations, resolve complaints, ensure compliance with and enforce standards, and levy penalties if required.

21.2.2 Appoint qualified representatives to investigate complaints. The costs and fees for the qualified representative will be paid by the Owner/operator and may include engineers, consultants, and other professionals.

21.2.3 Recommend to the Planning Board amendments to this Ordinance deemed necessary to address health or safety concerns not currently addressed in this Ordinance.

21.2.4 Have access to Town legal counsel as required.

21.3 Enforcement. Standards in this Ordinance will be enforced through a series of enforcement options including but not limited to: 1) Emergency shutdown; 2) 5 day response to serious violations with a 10 day mitigation period; 3) 30 day complaint resolution with a 30 day mitigation period; 4) financial penalties; and 5) other remedies.

21.4 Emergencies and Emergency Shutdown

The Owner/operator shall be required to immediately cease operations for the duration of any Emergency. Emergency shall mean a proven condition or situation caused by the WTG that presents an imminent physical threat of danger to life or significant threat to property. A WTG that is found to present an imminent physical threat of danger to life or significant threat of damage to property shall be immediately shut down and repaired or otherwise made safe and certified so by a professional engineer in good standing prior to resumption of operation. The Town shall have the right to access all Wind Turbines to verify conditions and/or repair progress with reasonable notice to the Wind Turbine owner/operator. Within 24 hours of an occurrence of a tower collapse, turbine failure, property damage or contamination, fires, thrown blade or hub, collector or feeder line failure, injured Wind Turbine worker or private person, the Owner/operator shall notify the Town of the occurrence and proposed remedial action.

21.5 Serious Violations of Standards

The Owner/operator of the WTG shall respond within five business days to any complaint or complaints deemed by the Enforcing Authority to have merit. Testing, paid for by the Owner/operator, will commence within ten working days of the complaint. Except as noted for

interference with emergency communications, the Owner/operator is responsible for mitigating the problem within ten business days from the final determination of any cause attributed to the operation of the WTG. Pursuant to Section 15.7.2, interference with emergency communications must be responded to in one day and mitigated within 2 days.

21.6 Other Violations

If the Enforcing Authority determines that a violation of the Ordinance or the permit has occurred, and the violation is determined neither to be an emergency pursuant to Section 21.4 , nor a serious violation pursuant to Section 21.5 , the Enforcing Authority shall provide written notice to the Owner/operator alleged to be in violation of this Ordinance or permit. The Enforcing Authority and the involved parties shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the written notice of violation. The Owner/operator shall pay for any necessary testing if the Owner/operator is subsequently determined to be in non-compliance. The Owner/operator is responsible for mitigating the problem within 30 days from the final determination of any cause attributed to the operation of the WTG. Mitigation involving significant construction or physical modification may have up to 90 days to be completed pursuant to Section 15.4.1.

21.7 Penalties

Any Person or Applicant who fails to comply with any provision of this Ordinance by failing to reach agreement with the Enforcing Authority, or after the expiration of the mitigation periods defined in Section 21.5 and Section 21.6 , shall be fined at least five hundred dollars ($500) but no more than one thousand dollars ($1000) for each WTG. A separate offense shall be deemed to be committed on each day during which a violation occurs or continues to occur.

21.8 Other Remedies

If the Owner/operator has not corrected the violation within the timeframes contained in Section 21.5 or Section 21.6 , the Enforcing Authority shall order the WTG to cease operation until the WTG can prove compliance with the standards of this Ordinance. At the discretion of the Enforcing Authority, penalties and fines may continue to accrue during this period. If after 6 months of being ordered to cease operations the Owner/operator has not demonstrated good faith and significant effort in resolving the issue, the Enforcing Authority shall initiate the decommissioning procedure pursuant to Section 22.0 .

21.9 Identifying Violations and Registering Complaints

21.9.1 Pursuant to Section 15.10.1, the Owner/operator will report to the Town all extraordinary events within 24 hours of their occurrence.

21.9.2 For Wind Turbines the Town will maintain, at the Owner/operator's expense, a system for recording and investigating all complaints related to the WTG. The system must be able to receive complaints 24 hours a day, 365 days a year. A permanent record of all complaints, investigations and outcomes will be maintained. The Owner/operator will designate a representative and method to receive and respond to complaints from the Town 24 hours a day, 365 days a year. Complaints for WTGs will be referred to the Enforcing Authority in a timely manner.

22.0 Decommissioning Standards

22.1 The Owner/operator shall, at its expense, complete decommissioning of the WTG within: 1) twelve (12) months after the end of the useful life of the WTG, or; 2) as specified in the materials provided at the time of application or; 3) pursuant to remedies described in Section 21.8 . The WTG will be presumed to be at the end of its useful life if no electricity is generated for a continuous period of twelve (12) months.

22.2 Decommissioning shall include removal of wind turbines and foundations to a depth of 36 inches. All buildings, cabling, electrical components, roads, and any other associated facilities shall be removed unless, at the end of the Wind Turbine or WTG's useful life, as determined in accordance with Section 22.1, the Applicant provides written evidence of plans for continued beneficial use of these components of the WTG, and this evidence is approved by the Planning Board.

22.3 Except as otherwise provided by Section 22.2, disturbed earth shall be graded and re-seeded, unless the Participating Landowner of the affected land requests otherwise in writing.

22.4 An independent and certified Professional Engineer shall be retained to estimate the total cost of decommissioning without regard to salvage value of the equipment ("Decommissioning Costs"), and the cost of decommissioning including the salvage value of the equipment ("Net Decommissioning Costs"). Said estimates shall be submitted to the Town of Unity after the first year of operation and every other year thereafter.

22.5 The Owner /operator shall post and maintain decommissioning funds in an amount equal to Net Decommissioning Costs; provided that at no point shall decommissioning funds be less than one hundred percent (100%) of Decommissioning Costs. The decommissioning funds shall be posted and maintained with a bonding company or Federal or State-chartered lending institution chosen by the Owner/operator and Participating Landowners posting the financial security, provided that the bonding company or lending institution is authorized to conduct such business within the State and is approved by the Town of Unity. No work can begin on the WTG before the decommissioning bond is issued and approved.

22.6 Decommissioning funds may be in the form of a performance bond, surety bond, letter of credit, or other form of financial assurance as may be acceptable to the Town of Unity.

22.7 If the Owner/operator fails to complete decommissioning within the period prescribed by Section 22.1, then the Participating Landowner shall have an additional six (6) months to complete decommissioning.

22.8 If neither the Owner/operator, nor the Participating Landowner completes decommissioning within the periods prescribed by Sections 22.1 and 22.7 the Wind Turbine or WTG shall be deemed to be in violation of this Ordinance and the Town of Unity may take such measures as necessary, including court action, to ensure the completion of decommissioning. The entry into and submission of evidence of a Participating Landowner agreement to the Town of Unity shall constitute agreement and consent of the Parties to the agreement, their respective heirs, successors and assigns that the Town of Unity may take such action as necessary to implement the decommissioning plan.

22.9 The escrow agent shall release the decommissioning funds when the Owner/operator has demonstrated and the Enforcement Authority concurs that the decommissioning has been

satisfactorily completed, or upon written approval of the Town in order to implement the decommissioning plan.

23.0 Real Estate Property Value Assurance Plan

The WTG Owner/operator must provide the Real Estate Property Value Assurance Plan (REPVAP)to all Non-Participating landowners who: 1) own property within one mile, measured horizontally, from the Project Boundary, and 2) have not signed any mitigation waivers. This is a legally binding contract with the Owner/operator and its successors and the landowners. Each one of these contracts must be submitted with the application.

The elements of the Real Estate Property Value Assurance Plan are as follows:

23.1 Establishing the Current Value of the Home

23.1.1 Three neutral real estate agents will be selected from a list of agents licensed in the State of Maine and conducting business in the general project area.

23.1.2 Each agent shall perform a Comparative Market Analysis (CMA) of the property – in its current state – which will compare the property size and improvements to no less than three similar properties that have sold with the past two years, using generally accepted CMA methods.

23.1.3 The two highest property valuations determined from each CMA will then be averaged to determine the "baseline" property value for REPVAP purposes only. The CMAs will be performed at the Applicant's expense. The property owner hereby agrees to permit access to the property as required to perform the CMA inspection. Furthermore, the property owner hereby agrees to provide full disclosure of known defects of the property as may be required under Maine State Law.

23.1.4 The agents preparing the CMAs will provide a written copy of their report to both the property owner and the Applicant. Both the Applicant and the land owner reserve the right to reject CMA results only in the instance of a clear mistake by the agent.

23.2 Establishing the Future Value of the Home if Listed for Sale.

23.2.1 If at any time during the three year period after a permit to erect the WTG, the property owner lists the property for sale with a qualified realtor from the Board of Realtors, then an "updated" Comparative Analysis will be prepared, again at the Applicant's expense, using the same procedure outlined above. The updated CMA will explicitly take into account any changes in local market conditions for comparable properties unaffected by the wind project, as well as any improvements to the home and/or lot.

23.2.2 In the event that the property has been listed for at least 12 months and sells for less than the market value determined by the updated CMA average, the Applicant will pay the difference in value within 30 days after closing of the sale of the property. The 12 month listing requirement may be waived by Applicant if requested by the property owner at the Applicant's sole discretion.

23.3 Other stipulations

23.3.1 The property owner hereby grants the Applicant the right to purchase the property at the greater amount of the updated CMA average market value or the highest bona fide offer.

23.3.2 In the event the property was offered for sale and did not sell or generate any acceptable bona fide offers within 12 months, the Applicant will pay the difference in value between the updated CMA averaged market value and the highest bona fide offer, but only upon reasonable certification by the property owner's selling agent that the lack of an acceptable offer or sale was attributable solely to the close proximity of the property to the WTG, and not due to any other reason whatsoever including but not limited to market conditions or specific deficiencies related to the property that was otherwise assumed to be satisfactory.

23.3.3 If the property does not sell within an 18 month period, the Applicant will have to purchase the property at the updated CMA average market value..

23.4 Subject to the Applicant's right to waive any or all these exclusions, the plan outlined herein does not cover a sale or transfer of the property under any of the following conditions.

23.4.1 If the property owner does not have clear and marketable title.

23.4.2 If the property has not been listed for sale for at least 12 months as a continuous period.

23.4.3 If the property is gifted or assigned to another person.

23.4.4 If the property is not listed for sale in accordance with Section 23.4.2 at some point.

23.4.5 If the property is not reasonably maintained in its current condition, reasonable wear and tear excepted.

23.5 Additional Conditions:

23.5.1 A property owner can participate voluntarily in this plan, under the terms and conditions established herein, but the benefit is not assignable to new or subsequent property owners.

23.5.2 If the Applicant sells or transfers ownership of the WTG, it must assign, transfer, pledge, or otherwise dispose of its obligations and interests under this agreement in a form acceptable to the contracting landowners, unless released in writing by contracting landowners. If no agreement can be reached, then the Applicant shall, before sale of the WTG, place into an escrow account, in favor of the landowner(s) the full value of the property, to be accessed by the landowner(s) if no sale is finalized within the time allocated in Section 23.4.2.

23.5.3 In the event any landowner experiences health problems directly attributable to the operation of the WTG, such that the home is rendered uninhabitable, and unsellable, the listing period will be waived, and the Applicant will be responsible for all medical expenses incurred, including but not limited to doctor visits, hospital visits and stays, medical procedures, medication and cost of lodging away from the home, up until such time as the Applicant purchases the affected property at its full value before the approval and operation of the WTG reduced the property's worth.

24.0 Tax Valuation Agreement and Tax Impact Statement

24.1 Tax Valuation Agreement

24.1.1 WTGs that have a taxable property value of greater than $10 million dollars; or, if the project will be qualified as a "designated business" for the purposes of state tax incremental financing as defined in Title 30-A M.R.S.A.§5241, are required to have a written agreement between the Town of Unity and the Owner/operator designating the financial methodology that will be used for tax valuation purposes ("Tax Valuation Agreement").

24.1.2 The Tax Valuation Agreement must be in a format approved by the Town attorney and comply with all applicable state and federal tax codes and laws.

24.1.3 The Tax Valuation Agreement must include a financial projection of the tax valuation for the useful life of the project and be prepared by a qualified CPA and reviewed by a qualified tax attorney selected by the Town and paid for by the Applicant.

24.2 Tax Impact Statement

A Tax Impact Statement must be prepared and presented to the Town. It will contain year-by-year for 10 years estimates of Unity resident's tax burden using the following data: 1) re-appraised values for all residents within 2 miles of the WTG, 2) State re-assessment for school tax amounts (assume constant school budget and constant contributions from Towns other than Unity), 3) other residents properties are presumed to stay at their same value. This Tax Impact Statement will be prepared by an Accountant hired by the Town at Owner/operator's expense. The Tax Impact Statement will be presented to the Town for information.

25.0 Jurisdiction Across Multiple Municipalities

This section addresses issues unique to the geography of the Town of Unity and its neighboring towns with which it shares a common boundary. In the event that potential sites for WTGs share multiple municipal jurisdictions, project permits should be coordinated to the fullest extent possible across town boundaries, while at the same time maintaining each individual Town's right to individual Home Rule.

25.1 This Ordinance applies to WTGs located wholly or partially in the Town of Unity to the fullest extent allowable by municipal, state, and federal law.

25.2 Approval to build or operate a WTG applies only to that portion of the WTG located within the boundaries of the Town of Unity. However, the application must take into account the entire WTG across municipal boundaries, including but not limited to the total number of Wind Turbines, Turbine Height, Wind Turbine location and all other relevant facts and data that may directly or indirectly effect the operation and viability of that portion of the WTG located in the Town of Unity.

25.3 Setback, Noise, Shadow Flicker and Mitigation Waiver standards for WTGs located and operated in the Town of Unity shall apply to property lines and roads irrespective of Town boundaries. For the purpose of this section a resident of such abutting towns is afforded the same protections as a resident of Unity.

25.4 This subsection applies to WTGs that are located partially in Unity and partially in neighboring Towns. To receive a permit from the Town of Unity for that portion of the WTG located in the

Town of Unity, the Owner/Operator shall agree in writing that the most protective setback and noise ordinance standard from any Town located within the WTG area shall control. The controlling ordinance must be in effect at the time the permit is granted.

25.5 The Town Clerk shall forward notice of WTG permit applications within 10 days of receipt, and notice of hearings and public meetings 14 days in advance, to the Selectmen and Planning Boards of adjacent communities for all WTGs if the neighboring community is located within a defined Setback of this Ordinance.

26.0 Ethical Standards

26.1 Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding WTGs shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

26.2 Public Access

All deliberations concerning WTGs, whether in writing or conducted verbally, by the Planning Board, Selectmen, Appeals Board, and any subcommittees or working groups of the aforementioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding WTGs between members of the Planning Board, Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings, which have been duly posted. Exceptions will be made only for: 1) appropriately recorded and executed executive sessions, and 2)communicating the minimal information necessary to set up and facilitate public meetings. Detailed minutes of deliberations and decisions concerning WTGs will be recorded and posted. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to "attorney-client privilege" by the Town attorney. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

26.3 Conflicts of Interest

The process to develop, permit and administer WTGs shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for WTGs. Conflicts of interest include but are not limited to:

1. having a lease as a Participating Landowner for a Wind Turbine or a lease for a transmission right-of-way,
2. having an identified financial arrangement with a wind development company including a signed Mitigation Waiver with financial remuneration,
3. serving as a paid representative of a wind development company, or a written or verbal promise for future employment or contracts from a wind development company;

4. being directly or indirectly affiliated or related to an Applicant with a pending application for a WTG, and,
5. knowing there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than $10,000 on behalf of a wind development company or as a subcontractor or employee .

Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision making regarding WTGs, with the exception of voting and debating as a private citizen at any public meetings and public hearings.

26.4 Bidding and Contracting for Community Owned Wind Projects

All bidding, contracts and employment for WTGs that are Community Owned Wind projects must be awarded through a process of public notice and competitive bidding. The Town of Unity reserves the right to design the bidding process to favor local contracts and local employment.

26.5 Code of Ethics for Wind Companies and Municipal Employees

26.5.1 Wind companies will not hire municipal employees or their relatives, give gifts of more than $10 during a one-year period, or provide any other form of compensation that is contingent on any action before a municipal agency

26.5.2 Wind companies will not solicit, use, or knowingly receive confidential information acquired by a municipal officer in the course of his or her official duties.

26.5.3 Wind companies will establish and maintain a public Website to disclose the names of all municipal officers or their relatives who have a financial stake in WTG development.

26.5.4 Wind companies will submit, in writing to the municipal clerk for public inspection, and additionally will publish in the local newspaper, the nature and scope of the municipal officer's financial interest.

26.5.5 All wind easements and leases will be in writing and filed with the County Clerk for public inspection.

27.0 Noise Measurement Standards and Procedures

27.1 A qualified independent acoustical consultant who is a Full Member of the Institute of Noise Control Engineering (INCE) shall conduct all noise studies. The acoustical consultant shall be hired by and report to the Permitting Authority. The Applicant will pay for the studies.

27.2 The WTG Applicant/Licensee shall provide all technical information and wind farm data required by the qualified independent acoustical consultant before, during, and/or after any acoustical studies required by this document and for acoustical measurements.

27.3 Sound level meters and calibration equipment must comply with the latest version of the American National Standards Institute "American Standard Specifications for General Purpose Sound Level Meters" (ANSI Standard S1.4) and shall have been calibrated at a recognized laboratory within one month prior to the initiation of the study.

27.4 Except as specifically noted otherwise, measurements shall be conducted in compliance with ANSI Standard S12.18-1994 "Outdoor Measurements of Sound Pressure".

27.5 Along with information about the make, model, and name plate capacity of all turbine potentially used in the proposed WTG, the Applicant will also supply their sound power levels (Lw) for each 1/3 octave band from 6.3 Hz to 10k hz.

27.6 A sound propagation model predicting the sound levels immitted into the community computed using at minimum 1/1 octave band sound power levels to compute the LCeq and LAeq levels to generate LAeq and LCeq contours in 5 dB increments overlaying an aerial view and property survey map from the WTG property out to a distance to include all residential property lines within two (2) miles measured horizontally from the Project Boundary.

27.7 Prior to permit application approval, a pre-construction ambient noise level study shall be conducted at each property line within 2 miles measured horizontally from the Project Boundary.

27.8 The tests shall be conducted using both an A-weighting scale (dBA) and low frequency C-weighting scale (dBC).

27.9 Predictions shall be made at all property lines within and outward for two (2) miles measured horizontally from the Project Boundary for the wind speed, direction and operating mode that would result in the worst case WTG nighttime sound emissions.

27.10 Tests shall be reflective of seasonal changes to vegetation and atmospheric conditions. At a minimum one set of tests should be performed during each of the four (4) calendar seasons of the year.

27.11 All measuring points shall be located in consultation with the property owners and such that no significant obstruction blocks noise and vibration to the site.

27.12 Outdoor noise level measurements must be taken at 6 feet above the ground and at least 15 feet from any reflective surface.

27.13 Duration of measurements shall be a minimum of ten continuous minutes for each criterion at each location.

27.14 Measurements must be made when the wind levels are less than 4.5 mph and with appropriate wind screening for the recording device.

27.15 When conducting their pre-construction noise prediction analysis, the Applicant shall make specific reference to: 1) the unique aspects of the mountainous contours and terrain of the area and its effect on noise predictability and; 2) line source noise predictions (emanating from a line of Wind Turbines) in addition to the traditional single point source predictions.

27.16 Measurements should be obtained during representative weather conditions when the Wind Turbine noise is most noticeable, including periods of temperature inversion most commonly occurring at night.

27.17 Measurements shall be taken at each of the following three time periods:

27.17.1 Day (10 a.m. – 2p.m.)

27.17.2 Evening (7p.m. -11 p.m.)

27.17.3 Night (12 midnight – 4 a.m.)

27.18 Each measurement shall be replicated during the same time period over three different days within the same season for a total of 9 measurements per location per season (e.g., three daytime measurements in the winter, three evening measurements in the winter, and three night time measurements in the winter). The lowest of the three measurements per time period, per season, will be used to determine the pre-construction ambient noise for that time period and season.

27.19 For each measurement the following minimum criteria will be recorded:

27.19.1 Lmax, Leq, L10 and L90 in dBA

27.19.2 Lmax, Leq, L10 and L90 in dBC

27.19.3 A narrative description of any intermittent noises registered during each measurement

27.19.4 Wind speed and direction at time of measurement

27.19.5 Description of weather conditions at time of measurement

27.19.6 Description of topography and contours relative to proposed or actual Wind Turbines

27.20 A comparison of the expected sound levels from the proposed WTG with the sound level limits of this regulation shall be submitted. Per Maine TA Bulletin #4, a written report comparing the expected sound levels with the pre-development ambient sound levels will help determine compliance with the standard.

27.21 A 5 dBA and/or a 5 dBC penalty shall be applied for short duration repetitive noise or repetitive impulse noise. This is a characteristic "thumping" or "whooshing" sometimes exhibited by larger Wind Turbines. Per Maine TA Bulletin #4, intermittent noise is a more serious nuisance than constant noise.

27.22 A 5 dBA penalty shall be applied for tonal noise. This is a single or limited frequency noise (vs. broadband noise) associated with mechanical noise artifacts (i.e. high pitched whining, screeching, buzzing). Per Maine TA Bulletin #4, noise over a narrow frequency is more serious nuisance than broadband noise.

27.23 For sites being measured with existing Wind Turbines two sets of measurements are required: 1) one set with the Wind Turbine(s) off and; 2) one set with the Wind Turbine(s) running.

27.24 For noise complaints after the Wind Turbines are operational, the measurement points, season, time, and duration of measurements shall be selected in consultation with the affected property owner. If requested by the property owner, continuous measurements may be taken for longer periods of time to capture intermittent nuisance noise patterns.

27.25 Within twelve months of the date when the project is fully operational, and within four weeks of the anniversary date of the pre-construction background noise measurements, repeat the existing sound environment measurements taken before the project approval. Post-construction sound level measurements shall be taken both with all WTGs running and with all WTGs off.

27.26 The post-construction measurements will be reported to the Town of Unity (available for public review) using the same format as used for the preconstruction sound studies. Post-construction noise studies shall be conducted by a firm chosen and hired by the Town of Unity. Costs of these studies are to be paid by the Licensee.

27.27 Any noise level falling between two (2) whole decibels shall be deemed the higher of the two.

27.28 When testing for WTG noise compliance, all measurements at the test location must be the pre-turbine background noise measurement location nearest to the home of the complainant in line with the WTG and nearer to it. The time of day for the testing and the wind farm operating conditions plus wind speed and direction must replicate the conditions that generated the complaint. Procedures of ANSI S12.9-Part 3 apply. The effect of instrumentation limits for wind and other factors must be recognized and followed.

28.0 WTG Submission Standards and Fees

28.1 Fees and Bonds.

28.1.1 Application Fee: $5,000.00.

28.1.2 Professional Fees Escrow: one half of one percent of the estimated cost of the project, minimum balance of $25,000.00 at all times.

28.1.3 Decommissioning Bond: See Section 22.0.

28.1.4 Road Damage Bond: See Section 15.9.4.

28.2 Submission standards.

All information in this application, unless specified, will become part of the public record. Information submitted by the Applicant must be continuously updated throughout the application process as changes are made or new information becomes available.

The Applicant shall include a written application, which shall include:

28.2.1 Applicant's name and contact information.

28.2.2 Legal Owner/operator and contact information.

28.2.3 Description of the legal structure of the WTG including a corporate organizational chart, ownership and equity structure, and all investors.

28.2.4 Description of the proposed WTG that includes the number of Wind Turbines, the nameplate capacity of each Wind Turbine, Turbine Height and manufacturer's specifications for each Wind Turbine, the aggregate generating capacity of the entire project, and a description of associated facilities.

28.2.5 Location map of the project showing the location of the each Wind Turbine, associated facilities, all property under partial or total control of the Applicant including easements and those under lease with Participating Landowners, roads, municipal boundaries, proximity to all Scenic or Special Resource features in the Town of Unity and major geographical features.

28.2.6 Detailed site plan showing the location of each Wind Turbine and Associated Facility and any of the following features located within 1.5 times the required setback: property boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), buildings (identify use), roads, driveways, right-of-ways, overhead utility lines, Scenic or Special Resources, tree cover, wetlands, streams, water bodies, areas proposed to be cleared of vegetation or re-graded, and areas proposed to be significantly excavated or blasted.

28.2.7 Copies of all Participating Landowner agreements and easement agreements. Dollar amounts may not remain confidential.

28.2.8 Copies of any deeds or purchase agreements for land owned or under option by the Owner/operator.

28.2.9 Receipt showing payment of application fees and escrow for professional and public hearing fees.

28.2.10 A copy of the most current business plan for the WTG.

28.2.11 A copy of all collected and available relevant wind data for the WTG. This information is a critical indicator of the long-term financial viability of the project.

28.2.12 Proof of financing.

28.2.13 Reference list of all previous WTGs with which the Owner/operator has been affiliated.

28.2.14 Proof of compliance with all required setbacks. The Applicant shall work with the Permitting Authority to complete a pre-construction noise study per Section 27.0 . This study must be completed before the permit can be approved.

28.2.15 A detailed noise prediction model for worst-case noise scenarios based on wind speed and wind direction for the WTGs. The study shall be projected onto a contour map for a minimum of two miles from each Wind Turbine. Worst-case scenarios for each property line within the 2-mile radius, measured horizontally from the Project Boundary, shall be reported in table form. The model will address the unique mountainous terrain of the area. Noise predictions will include both single source and line source origination. All underlying assumptions and algorithms in the model will be documented.

28.2.16 As part of the review process, the Applicant will, per Maine TA Bulletin #4, provide written demonstration that the noise standards in this Ordinance will be met.

28.2.17 The Wind Turbine manufacturer's noise emission specifications for each Wind Turbine model.

28.2.18 A shadow flicker and blade reflection model for the proposed WTG. The model will provide a worst-case scenario (100%) seasonal representation for each Occupied Building within two miles of any Wind Turbine. The model will calculate maximum hours of shadow flicker and blade reflection in table form for each Occupied Building. A worst-case scenario shall also be constructed for vehicle traffic on Route 220.

28.2.19 Copies of all executed Mitigation Waiver agreements concerning Setbacks, Noise and Shadow Flicker/Blade Reflection. Dollar amounts may not remain confidential.

28.2.20 Written demonstration that the Wind Turbine Plan is consistent with the Unity Site Plan Review Ordinance.

28.2.21 Documentation showing compliance with Section 15.2.2, both during construction and post construction.

28.2.22 Documentation showing compliance with Section 15.2.3 and with Section 15.2.4.

28.2.23 Documentation showing compliance with Section 15.2.5. Documentation must include a construction site erosion plan and storm water runoff control plan that minimizes potential adverse impacts on streams and wetlands.

28.2.24 Documentation showing compliance with Section 15.2.6.

28.2.25 Documentation showing compliance with Section 15.2.7.

28.2.26 Written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program have both been notified of the pending application and the location and Turbine Height of all proposed Wind Turbines.

28.2.27 A Location of Development permit from the Maine Department of Environmental Protection (DEP) pursuant to Title 35-A M.R.S.A. §3451, Title 35-A M.R.S.A. § 3456 and Title 38 M.R.S.A § 482 is required unless the Wind Turbine: 1) does not sell or convert electricity for off site use including net metering; and, 2) does not qualify as a Structure with a total land area in excess of 3 acres for the entire WTG.

28.2.28 A visual impact assessment pursuant to Section 15.3 .

28.2.29 Photographs of existing conditions of each Wind Turbine and associated facility site.

28.2.30 Sight line, photographic, and elevation information shall be provided from: 1) each Occupied Building within the Setback; 2) from any Scenic or Special Resource location and other locations as the Permitting Authority deems necessary.

28.2.30.1 A Sight Line Representation shall be drawn that shows the lowest point to the Wind Turbine visible from each location. Each sight line shall be depicted in profile, drawn at one-inch equals 40 feet. The profiles shall show all intervening trees and physical structures.

28.2.30.2 Each Sight Line shall be illustrated by one four-inch by six-inch color photograph of the current view.

28.2.30.3 Each of the existing condition photographs shall have the proposed Wind Turbines superimposed on it to accurately simulate the WTG when built.

28.2.30.4 Elevations of the tops of any structures on the subject property relative to the elevation of the Wind Turbines(s)

28.2.30.5 The height and elevation relative to the Wind Turbine(s) of trees, both existing and proposed, that are to provide visual buffering. In the case of trees to be planted, the proposed height at the time of planting as well as the projected mature height is to be provided.

28.2.31 Demonstrate compliance with Section 13.3. Provide a written description of emergency and normal shutdown operations.

28.2.32 Demonstrate compliance with Section 14.1. Submit required permits from the Federal Aviation Administration.

28.2.33 Demonstrates compliance with Section 14.2.

28.2.34 Submit contract with Maine licensed professional engineer to conduct post construction structural and operational inspection and written agreement by Applicant to submit proof of successful inspection as a condition of permitting before operating WTG

28.2.35 Proof of Liability Insurance in the amount of five million dollars ($5,000,000.00) per occurrence.

28.2.36 Time-line showing all aspects of the construction.

28.2.37 Photographs and detailed drawings of each Wind Turbine, including foundation design. Details must be provided of all significant excavation and blasting.

28.2.38 Demonstrate compliance with Section 15.4.3. A map shall be provided showing all transmission lines and rights-of-way that will need to be built or upgraded to accommodate the WTG. Applicant shall submit copies of signed letters of intent to grant easements, long-term leases or other property rights from involved landowners and any governmental unit responsible for access, approval or construction of electric transmission and distribution lines, whether part of the WTG or part of the local electrical distribution grid. The Applicant shall submit an affidavit stating that no property will need to be taken by eminent domain to facilitate transmission lines necessary to support the project.

28.2.39 A geological report from a registered geotechnical engineer demonstrating that the soils can support the Wind Turbines and the underlying ground is geologically stable. The report shall include a slope stability analysis and any underlying fault zones.

28.2.40 A written summary of all routine operation and maintenance procedures for the WTG.

28.2.41 Demonstrate compliance with Section 15.6 . Provide an estimate of required new equipment and training to be provided.

28.2.42 Document all potential hazardous wastes that will be used on the WTG, including but not limited to any chemicals used to clean the Wind Turbine blades, and how these wastes will be transported, handled, stored, cleaned up if spilled, and disposed of during any phase of the project's life.

28.2.43 A communication/electromagnetic interference study prepared by a registered professional engineer showing that the proposed WTG will comply with Section 15.7. The Owner/operator will sign an affidavit stating that the Owner/operator shall be responsible for the full cost remediation to remain in compliance with this Section.

28.2.44 Demonstrate compliance with Section 15.8. Before and after photographs or videos of the roadways, in a format approved by the Permitting Authority, shall be submitted as part of the documentation process.

28.2.45 A road and property use and risk assessment plan in compliance with Section 15.9.

28.2.46 An affidavit agreeing to comply with all provisions in Section 15.10.

28.2.47 An affidavit agreeing to comply with all provisions in Section 21.0.

28.2.48 A decommissioning plan in compliance with Section 22.0.

28.2.49 Copies of executed contracts as per Section 23.0.

28.2.50 An Tax Valuation Agreement must be submitted, if required under Section 24.1.

28.2.51 If the WTG crosses multiple municipal jurisdictions the Applicant shall demonstrate compliance with Section 25.4.

28.2.52 Copies of all written agreements and disclosure of all verbal promises, for contracts, subcontracts, employment, consulting fees, gifts or other remuneration in excess of $10 (cash

or in-kind) to residents or businesses in Unity, either previously made or contingent on permitting of this project.

28.2.53 An Affidavit agreeing to comply with all provisions of Section 26.5 .

28.2.54 Applicant shall deliver a letter by certified mail to the owner of any property that the Applicant proposes to be restricted by the permit. The letter will state that the Applicant has filed an application, list future development that will be restricted, and to what extent it will be restricted, on abutting properties by virtue of the permit being granted. Examples of restrictions include, but are not limited to, building Occupied Buildings within the setback area without a Mitigation Waiver, building structures (i.e. Wind Turbines or cell towers that the WTG would interfere with), zones in which future telecommunication installations can expect interference from the WTG. Applicant must provide fair compensation to any non-participating landowners within the setback areas for restricting future development of their property.

28.2.55 Proof that the Applicant has notified the following agencies via certified mail and received any necessary permits or permissions for the project:

28.2.56 Federal Aviation Administration.

28.2.57 U.S. Department of Defense facilities located within 50 miles from the proposed WTG.

28.2.58 Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Permitting Authority to ensure compliance with this Ordinance.

28.2.59 Signed affidavit from the Owner/operator that Applicant has read the Town of Unity Wind Turbine Ordinance and agrees to abide by its provisions.