

2017

Town of Albion Ordinances

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Town of Albion Land Use Ordinance

Enacted:
March 21, 2015

Amendments Enacted:
March 19, 2016

Amendment Date: June 13, 2017

Attested Signature: Amanda Dow
(Town Clerk)

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ALBION LAND USE ORDINANCE

Article I. General Provisions

1. Title

This Ordinance shall be known and cited as the *Albion 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 4401 et seq. (*Subdivision Law*). This Ordinance is founded upon and pursuant to Albion’s Comprehensive Plan as adopted on March 16, 1991.

3. Purposes

The purpose of this Ordinance is to provide for the health, safety, and general welfare of the public and residents of the Town of Albion, specifically:

- A. to allow for affordable residential and commercial growth, while preserving Albion’s rural character, particularly its open land, scenic beauty and reasonable tax rate;
- B. to make efficient use of land and public facilities, particularly roads;
- C. to protect the natural resources of the community from degradation;
- D. to foster harmonious co-existence of commercial, residential, recreational and other land use activities;
- E. to maintain and enhance the historic village character;
- F. to provide clarity and consistency to the town’s treatment of growth and development;
- G. to protect the quality of ground and surface waters;
- H. to protect the agricultural base of the Town;
- I. to promote the availability of affordable housing options;
- J. to promote well-designed commercial and industrial development;
- K. to preserve scenic beauty;
- L. to avoid development sprawl;

- M. to protect landowners' rights and freedom of choice in development activities;
- N. to discourage large amounts of traffic on Albion's rural road network;

4. Applicability

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

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

This Ordinance will become effective on the date of its adoption. It contains a comprehensive set of amendments to the Land Use Ordinance adopted March 21, 1992 and subsequently amended, and replaces it in its entirety.

8. Amendments

- A. An amendment to this ordinance may be initiated by:
 - (1) the Planning Board, provided a majority of the Board has so voted;
 - (2) request of the municipal officers; or
 - (3) written petition of at least 25 voters registered to vote in Albion.

- B. The Planning Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation within the Town at least two (2) times, the date of the first publication to be at least twelve (12) days prior to the hearing and the date of the second publication to be at least seven (7) days prior to the hearing. Notice of the hearing shall also be posted in the Town Office at least thirteen (13) days prior to the hearing.

- C. If an amendment to land use districts is proposed 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. An amendment to this ordinance may be adopted by a majority vote of the Town Meeting.

At any time this Ordinance is amended, the Planning Board, Planning Board secretary or designated agent 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.

9. Availability

A certified copy of this Ordinance, as well as the Land Use Map, shall be filed with the Town Clerk and shall be accessible to any member of the public during Town Office hours. Copies shall be made available to the public at reasonable cost to be charged to the person making the request. Notice of the availability of this Ordinance shall be posted in the Town Office.

Article II. Administration

1. Administering Bodies and Agents

A. Code Enforcement Officer

- (1) The Code Enforcement Officer shall be appointed or reappointed annually.
- (2) The Code Enforcement Officer shall have the following powers and duties:
 - a) Act upon land use permits as authorized by this ordinance, refer appropriate permits to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals.
 - b) Enter any property at reasonable hours with the consent of the owner, occupant or agent to inspect the property or building for compliance with this ordinance.
 - c) Investigate complaints and reported violations.
 - d) Keep written inspection reports and thorough records. All permits and permit applications shall be filed in the Town Office by Tax Map and Lot Number.
 - e) Issue violation notices.
 - f) Participate in appeals procedures.
 - g) Appear in court when necessary.
 - h) Confer with citizens in the administration and enforcement of this Ordinance.
 - i) Attend meetings of the Board of Appeals and meetings of the Planning Board as necessary.
 - j) Revoke a permit within his or her jurisdiction after notice and hearing if it was issued in error or if it was based on erroneous information.
 - k) Inform the Planning Board of any similar problems discovered in permits issued by the Board.
 - l) Shall issue a written report to the Planning Board at least once each month. The report shall include a list of all permits issued and all enforcement actions taken.

B. Planning Board

- (1) The Planning Board shall be constituted as provided for in the *Ordinance to Re-establish the Town of Albion Planning Board*.
- (2) As the designated municipal reviewing authority, the Planning Board is responsible for acting upon applications for land use, subdivision and site plan review permits as provided in Article IV of this Ordinance

2. Enforcement

A. Nuisance

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

B. Enforcement Procedure

- (1) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision 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 both the municipal officers and Planning Board and be maintained as a permanent record.
- (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, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.

C. 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 recording 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 pose a threat or hazard to public health and safety or will result in substantial environmental damage.

D. Special Exceptions

A municipality by ordinance may authorize a code enforcement officer to issue a permit of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to a duration of the disability or to a time that the person with a disability lives in the dwelling.

For purposes of this section, the term “structures necessary for access to or egress from the ‘dwelling’ includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For purposes of this section, “disability” has the same meaning as a physical or mental disability under Title 5, section 4553-A.

E. Penalties

- (1) Except as provided in (2), below, any person, including but not limited to 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, §4452.3.
- (2) The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100. The maximum penalty is an amount twice (2x) the original permit fee, or \$2,500, whichever is less. A violation and penalty under this section does not exempt the violator from the original permit requirement.

3. Appeals

- (1) An applicant or other aggrieved party may appeal any decision of the Code Enforcement Officer or Planning Board as an administrative appeal with the Board of Appeals, according to the procedures outlined in section 6.1 of *The Ordinance to Establish Town of Albion Board of Appeals*.
- (2) A variance to dimensional requirements of this ordinance may be requested from the Board of Appeals, according to the procedures outlined in section 6.2 of *The Ordinance to Establish Town of Albion Board of Appeals*. A variance may only be granted for requirements for frontage, lot area, buffer width and setback requirements. A variance may not be granted for failure to achieve adequate rating under the point system.

Article III: Land Use District Definitions and Requirements

1. Land Use Districts Established – Townwide Districts

A. Official Land Use Map

The Land Use Districts referenced in this Ordinance are located and bounded as shown on the Official Land Use Map which is hereby made a part of this Ordinance.

(1) Certification of Map

The Official Land Use Map is certified by the attested signature of the Town Clerk under the following words: "This is the Official Map of the Land Use Ordinance of the Town of Albion", together with the date of the adoption of this Ordinance. The official copy shall be located in the office of the Town Clerk.

(2) Changes to the Official Land Use Map

If changes are made in the district boundaries, or other matter portrayed on the Official Land Use Map, such changes shall be made on the Map within fourteen (14) days after the amendment has been adopted together with an entry on the Official Map as follows:

"On [date], the Town Meeting enacted the following change: [insert brief description of the nature of change]."

Immediately beneath the entry the Town Clerk shall place his or her signature.

(3) Replacement of Official Land Use Map

In the event that the Official Land Use Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions the Board of Selectmen shall authorize re-creation of the map as nearly as possible to the most recent official version.

B. Establishment of District Boundaries

Where uncertainty exists as to the boundaries of districts as shown on the Official Land Use Map the following rules shall apply.

- i. Boundaries indicated as approximately following the center lines of streets, highways, rivers, or streams, or defined in terms of their distance from said center lines, shall be construed to precisely reference such center lines.
- ii. Boundaries indicated as approximately following plotted lot lines shall be construed as following such lot lines. In cases where a lot line shifts due to boundary line adjustments, the district boundary will shift accordingly.

- iii. Boundaries indicated as approximately following Town limits shall be construed to follow such limits.
- iv. Boundaries indicated as following (or referencing a specific distance from) shorelines shall be construed to following such shorelines, and in the event of change in the shoreline shall be construed as moving with the shoreline.

C. Village Area

(1) Description

The Village Area is the center of Albion, hosting a variety of public, commercial and residential uses. The standards in this ordinance are designed to maintain and enhance the function and attractive aspects of the mixed uses in the village, encouraging its continued role as a community center. The following characteristics are representative of and desired for the Village Area:

- i. more compact area, with lot sizes generally limited only by subsurface wastewater disposal as determined by the State Plumbing Code;
- ii. encouragement of office and retail activity;
- iii. discouragement of industrial activity;
- iv. design standards established for signs, displays and buildings to retain historic character; and
- v. increased landscaping.

(2) Applicability

The Village Area is defined as the land areas within the following boundaries:

- a) Hussey Road to south boundary of Tax Map 7, Lots 88 and 89
- b) Unity Road to east boundaries of Tax Map 7, Lots 27 and 79
- c) Benton Road to Mill Stream on the west and to the north boundary of Tax Map 7, Lot 20 on the east (near Taylor Road intersection);
- d) Winslow Road to the Narrow Gauge Railroad bed, also the west boundaries of Tax Map 17, Lots 16 and 115; and
- e) China Road to the south boundaries of Tax Map 7, Lot 25-1 and Tax Map 17, Lot 18.

(3) Allowed Uses

All uses are allowed in the Village Area with the exception of high-impact industrial activities. Permitting requirements apply (Article IV).

(4) Dimensional Requirements

Lot Size: The minimum required lot size for non-residential uses and single family housing units is 0.75 acre. The minimum required lot area for two-family housing units is 1 acre. For three or more housing units, the minimum required lot area is 1 acre plus 10,000 square feet for each unit above two.

Road Frontage: The minimum required frontage along a Public Road is 150 feet. The minimum required frontage along a Private Road is 75 feet.

Property Line Setbacks: The minimum required distance between a building and a street or right-of-way line is ten feet. The minimum required distance between a building and a side or rear property line is fifteen feet.

D. Growth Area

(1) Description

The Growth Area represents land area in Albion where the Town wishes to encourage more intensive development. The area was selected on the basis of roads that are designated collectors for the majority of local traffic and maintained by the State. Growth along these corridors will reduce impacts on rural resources.

It is anticipated that development will occur at an average density of approximately one unit/acre. New private roads are encouraged to prevent development sprawl along the main collector access roads.

(2) Applicability

Albion's Growth Area encompasses all parcels directly abutting China Road (Route 202), Winslow Road, Benton Road, Unity Road (Route 202), or Freedom Road (Route 137), and not within the designated Village Area.

(3) Allowed Uses

All land uses are allowed in the Growth Area. Permitting requirements apply (Article IV).

(4) Dimensional Requirements

Dimensional requirements in the Growth Area are intended to be flexible, to accommodate creativity of design. Use tables III-1 and III-2 in subsection F, below, to determine dimensional requirements in the Growth Area.

E. Rural Area

(1) Description

The Rural Area is intended to maintain Albion's rural character, providing larger tracts of undeveloped land available for agriculture, forestry, wildlife habitat, recreation;

low-impact commercial and industrial activities; and low-density residential development.

(2) Applicability

The Rural Area includes all land area in Albion not located within the Growth Area, Village Area, or Shoreland Zoning District.

(3) Allowed Uses

All uses are allowed. Uses which are calculated to generate more than one hundred (100) vehicle trips per day according to Table VI-2 (page) will not be allowed unless they are place-dependent (example: parks) or resource-dependent (examples: farm stores, lumber mills, gravel crushers).

(4) Dimensional Requirements

Dimensional requirements in the Rural Area are intended to be flexible, to accommodate creativity of design. Use tables III-1 and III-2 in subsection F, below, to determine dimensional requirements in the Rural Area.

F. Dimensional Standards in Growth and Rural Areas

(1) Flexible Development Design in Growth and Rural Areas

Development design is a mechanism for balancing preservation of Albion's rural character with diversity of design, affordability of housing, and landowners' freedom of choice.

(2) POINT SYSTEM

The POINT SYSTEM described in this section is designed to guide new development in Albion towards land use goals while encouraging diversity, affordability and freedom of choice. Point system values have been selected to achieve the Town's objectives while keeping restrictions to a minimum. Applicability

- a. The POINT SYSTEM will be applied prior to issuance of a land use permit for one- and two-family and non-residential buildings in the Growth and Rural Areas. Calculation of point values totals must be a part of the land use permit process.
- b. The POINT SYSTEM does not apply within the Village Area or to any accessory structures. Accessory structures shall meet the Base setback standards in the applicable table.
- c) The POINT SYSTEM does not apply to subdivision design, including mobile home parks and multi-family development. Dimensional standards for lots within subdivisions are described in Article V, section 14; for mobile home parks in Article VII, section 5; for multi-family development in Article VII, section 6.

(3) Calculation Under the POINT SYSTEM

In the Growth and Rural Districts, an applicant must achieve POINTS in order to receive a land use permit. The Base Standard is the minimum requirement and no POINTS are awarded for meeting it. The fulfillment of each “desired” standard is worth ONE POINT. Partial points are awarded for design falling in-between the base and “desired” standards. *(For example, a one-acre lot in the Growth Area would be awarded a point value of .33, as it is one-third of the difference between the “desired” and “allowed” standards).* No more than ONE POINT may be awarded within each performance area.

The screening/landscaping performance standard is meant to be interpreted with flexibility, encouraging lot developers to either retain existing vegetation or plant new trees and shrubs so that approximately the percentage of the building listed in the standard is likely to be visible from the road within ten (10) years.

TABLE III - 1: Minimum Dimensional Standards Lots for SINGLE-FAMILY RESIDENTIAL and NON-RESIDENTIAL STRUCTURES							
Performance Area		District					
		Growth Area			Rural Area		
		Base	Desired	Points	Base	Desired	Points
1	Lot Size	.75 acre	1.5 acre		1 acre	3 acres	
Frontage:							
2A	Public Road	150'	200'		200'	300'	
2B	Private Road	75'	150'		150'	200'	
Building Setbacks from Edge of Right-of-Way and Property Lines:							
3	Front	30'	50'		50'	100'	
4	Side	15'	30'		20'	50'	
5	Rear	15'	30'		20'	50'	
Screening/Landscaping (% of Structure Visible from Road Within 10 Years):							
6	Front	100%	50%		100%	50%	
7	Side	100%	50%		100%	50%	
TOTAL POINTS AWARDED (minimum of 5 needed for permit)							

TABLE III - 2: Minimum Dimensional Standards Lots for TWO-FAMILY (DUPLEX) RESIDENTIAL								
Performance Area		District						
		Growth Area			Rural Area			
		Base	Desired	Points	Base	Desired	Points	
1	Lot Size	1.5 acres			N/A	2 acres		N/A
Frontage:								
2A	Public Road	150'	200'		200'	300'		
2B	Private Road	75'	150'		150'	200'		
Building Setbacks from Edge of Right-of-Way and Property Lines:								
3	Front	30'	50'		50'	100'		
4	Side	15'	30'		20'	50'		
5	Rear	15'	30'		20'	50'		
Screening/Landscaping (% of Structure Visible from Road Within 10 Years):								
6	Front	100%	50%		100%	50%		
7	Side	100%	50%		100%	50%		
TOTAL POINTS AWARDED (minimum of 4 needed for permit)								

(4) Exemption for Frontage Standard along Curves and on Cul-de-Sacs

New building lots located at the end of cul-de-sacs or along curves in a road where the radius of the curve at the front lot line is less than 90 feet, may be designed so that they have a minimum of 35 feet of road frontage along the front lot line, so long as lot width at the location where the principal building is to be constructed is at least equal to the distance normally required for road frontage in that district. The lot width shall be measured along lines that are parallel to a tangent at the mid-point of the curve.

(5) Exemption for Public Utilities

Electrical Power transmission or distribution lines and structures supporting said lines are not subject to the dimensional standards of this ordinance.

(6) Shoreland Zone

Land use within the Shoreland Zone is administered by a separate Shoreland Zone Ordinance. Refer to Shoreland Zone Ordinance for applicable regulations.

2. Non-Conformance

A. Purpose

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

B. General Requirements

(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 pursuant to this Ordinance, the normal upkeep and maintenance of non-conforming uses and structures.

(3) Rebuilding

If a non-conforming structure is destroyed by fire or act of God, it may be rebuilt provided the construction is commenced within one (1) year from date of destruction. In no case shall a structure be reconstructed or replaced so as to increase its nonconformity.

C. Non-Conforming Structures

(1) Expansions

A non-conforming structure may be added to or expanded after obtaining a permit from the Planning Board, if such addition or expansion does not increase the non-conformity 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 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 slope of the land, the location of other structures on the property, the potential for soil erosion, 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.

(3) Reconstruction or Replacement

Any non-conforming structure which is damaged or destroyed may be reconstructed in place with a permit from the Planning Board.

D. Non-Conforming Uses

(1) Expansions

Expansions of non-conforming uses are prohibited, except that non-conforming uses may, after obtaining a permit from the Planning Board, be expanded within residential structures legally existing as of the effective date of the Ordinance, or on the effective date of a subsequent amendment that causes such use to be non-conforming.

(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 Planning Board finds, after receiving a written application, that the proposed use is equally or more appropriate to the district than the existing nonconforming 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.

In determining that “no greater adverse impact” will occur, the Planning Board

shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

E. Non-Conforming Lots

(1) Non-conforming Lots

A non-conforming lot of record legally existing 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 size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals. If more than one residential dwelling unit or other use is built, located or created on a non-conforming lot of record, the minimum lot size requirement of the District in which it is located shall be met for each residential dwelling unit.

(2) Contiguous Built Lots

If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the 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 lots of at least 20,000 square feet are created and provided further that all such lots meet the requirements of the *State of Maine Subsurface Wastewater Disposal Rules*.

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 *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

a) If two or more contiguous lots or parcels are in the same 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.

b) These provisions are intended to apply to all lots whether shown on an approved and

recorded plan or not. Corporations that have two or more common directors (or their spouses) shall be treated as the same corporation (that is, as the same single or joint owner) for the purposes of this Ordinance.

F. Vested Rights

Non-conforming use rights do not arise by the mere filing of a notice of intent to build, an application for building permits, or an application for required State permits and approvals. Such rights may arise when actual substantial construction has begun, or, in the case of pending applications, when the substantive review process to determine compliance with substantive performance standards on a complete application commences. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all validly issued permits, both State and local.

Article IV: Land Use Regulation and Permitting

1. Permits Required

- A. After the effective date of this Ordinance, no person shall engage in any land use activity requiring a permit without first obtaining such a permit.
- B. Permits are not required for the following activities:
 - (1) For normal repair and maintenance or remodeling.
 - (2) The construction, erection, addition, or enlargement of any structure that has a total area of less than 125 square feet in area after construction is completed.
 - (3) Fences.
 - (4) Home Occupations, as defined.
 - (5) Agricultural and forestry practices, except clearcuts over five(5) acres and permanent agricultural structures over 125 square feet.
- C. An application fee shall be required to accompany any permit application. Permits will not be processed without proof of fees paid.
 - (1) A fee schedule will be adopted by the Board of Selectmen. The fee schedule may be amended by the Board of Selectmen at any time if it appears on the Board's published agenda. Any amendment to the fee schedule will take effect thirty (30) days following the date of adoption.
 - (2) Application fee amounts will be generally consistent with the cost of processing the permit applications, including staff time, postage, and advertising expenses.
 - (3) The Planning Board is authorized to assess applicants for subdivision or site plan permits the actual cost of professional assistance if such assistance is needed. Assistance may include, but not be limited to, legal advice, engineering analysis, or plan review by other than town staff. Rules for engaging professional assistance and assessing fees shall be incorporated into the board's procedural guidelines, and no permit will be approved unless such costs as assessed are paid.

2. Land Use Permits

A Land Use Permit shall be obtained from the Code Enforcement Officer or Planning Board for any land use activity as listed below prior to start of any construction, site work, or commencement of activity.

- A. Permits Issued by the Code Enforcement Officer:
 - (1) A single-family home, seasonal home, or accessory living unit within a single-family home.

- (2) The construction, erection, addition, or enlargement of any residential structure (see definitions) that would result in a total combined area of 125 sq. ft., or greater including but not limited to decks, lean-to's, barns additional stories, dormers, and permanent swimming pools. Poles, posts, or any supports that would substitute for the wall are included for measuring purposes, in the absence of walls. For the purpose of this Ordinance, any two structures that are separated by less than one (1) foot are considered a single structure.

B. Permits Issued by the Planning Board:

- (1) Two-family Residential Buildings, including conversion from single-family
- (2) A lot, structure, or use which is non-conforming
- (3) Commercial development covering impervious surface of less than 10,000 square feet, including public, civic, or institutional uses, *provided that* the Planning Board may require review as a Major Development if the development is projected to exceed fifty (50) vehicle trips per day, as calculated using Table II-2 (page 44) of this Ordinance, or if the development would regularly sell, use, or store petroleum or toxic materials in commercial quantities.
- (4) Mineral (including Gravel) extraction, (see definition). Mineral extraction permits are five-year, renewable permits, as described in Article VII, Section 3.
- (5) Clearcuts in excess of five (5) acres
- (6) Roads (unless included in a major development review).

C. Procedure for Applying for a Land Use Permit:

- (1) Application Form
 - a) Every applicant for a land use permit shall submit a written application, including a scaled plan of proposed structures as they would sit on the lot, on a form provided by the Town of Albion, to the Town Office for review as provided above.
 - b) Whenever a new land use will require a new driveway entrance, permission from the Road Commissioner (for town roads) or Maine DOT (for state roads) is required before a land use permit may be issued. The driveway permit must be submitted with the application.
 - c) All applications shall be signed by the person proposing the activity, or their authorized agent, 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.
 - d) All applications shall be dated, and the Town Office shall note upon each

application the date that it was received.

- e) Permit fees shall be submitted before processing of the application will begin. The Town Office will provide a dated receipt for fees paid.

(2) Plumbing Permit

- a) A valid plumbing permit and a complete wastewater disposal system design (HHE 200 or as amended) shall be submitted whenever the nature of the proposed structure would require the installation of a subsurface sewage disposal system.
- b) All applications for expansions of structures or uses which would cause an increase in the volume of wastewater to be disposed of shall be submitted with one of the following items. (For the purposes of this section the addition of bedrooms to a residence shall indicate an increase in wastewater volume per the State Plumbing Code.)
 - i. A letter of certification from a licensed site evaluator certifying that the existing wastewater disposal system is operating properly and that it is capable of properly disposing of the increased wastewater volume.
 - ii. A copy of the original DHS HHE 200 forms showing the septic system design and documenting that the original system was oversized and is designed to handle the increased wastewater volume.

D. Review of Applications for Land Use Permits

(1) Procedure for Administering Permits.

Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a complete application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of a complete application.

(2) Public Hearing

The Planning Board may choose to hold a public hearing regarding applications within its jurisdiction. If a Public Hearing is held, the Board shall follow procedures established by its procedural guidelines, including notification of abutters.

(3) Timing of Actions

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 the date of determination that the application was complete, *except* that the Planning Board and applicant may mutually agree on an extension of the 35 day limit.

(4) Approval

Permits shall be approved if the proposed use or structure is found to be in conformance with the provisions of this Ordinance. Permits may be made subject to reasonable mandatory conditions to ensure conformity with this Ordinance. 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 any State law which the Town is responsible for enforcing.

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.

E. Expiration of Permit, Extensions

Following the issuance of a permit, if no substantial start is made in construction or in use of the property within one year of the date of the permit, the Planning Board may order the voiding of the permit. The applicant may request an extension of up to one (1) year of the time for a substantial start.

3. Review and Permitting of Major Development (Subdivisions and Major Commercial)

A. Purpose

The purpose of this section is to:

- Provide a streamlined review process for subdivisions required to be reviewed under Title 30-A MRSA, Section 4401 et seq. and for commercial development subject to the provisions of this Ordinance.
- Direct the Planning Board to adopt submittal requirements, procedural guidelines, and appropriate application forms for review.

B. Administration

The Planning Board shall adopt submission requirements, procedural guidelines, and application forms for use by development applicants. All materials and procedures will be designed for use with both subdivision and commercial development review to avoid unnecessary duplication.

C. Subdivision Review

- (1) Subdivision approval is required for all subdivisions *as defined by* Title 30-A MRSA, Section 4401. Division of a building or property for commercial purposes, where ownership in the building or land is retained for income-producing purposes, is not subject to subdivision review under this definition. Buildings divided into three (3) or more dwelling units or two or more duplex residential units on a parcel and Mobile Home Parks are reviewed as subdivisions.
- (2) The Planning Board shall make findings of fact and conclusions of law that the subdivision will meet the criteria in Title 30-A MRSA, section 4404. The Board may attach reasonable conditions to the approval to ensure conformity with the standards and criteria of this Ordinance.

E. Commercial Development Review

- (1) Planning Board review is required for commercial development, including public, civic, and institutional uses, where the impervious surface of the developed area will exceed 10,000 square feet. Commercial development includes the subdivisions of buildings into multiple leaseholds for commercial purposes. The Planning Board may also choose to apply these procedures to certain high-impact development that would otherwise qualify for review as a land use permit (see section IV.2.B(3), above).
- (2) An application shall be approved if the proposed development is found to be in conformance with the criteria and standards of Articles V, VI, and VII this Ordinance. The Board may attach reasonable conditions to the approval.

E. Expiration of Approval, Extension

Following the issuance of a permit, if no substantial start is made in construction or in use of the property within one (1) year of the date of the permit, the Planning Board may order the voiding of the permit. The applicant may request an extension of up to one (1) year of the time for a substantial start.

F. Limited Waiver of Standards

Upon written request of the applicant for subdivision or site plan approval, the Planning Board may find that strict compliance with the standards of Articles V, VI, and VII of this Ordinance presents an undue burden. The applicant shall provide an alternative means of meeting the standards which will permit a more practical and effective development provided, however, that the public health, safety and welfare will not be compromised.

The Planning Board will make a written record of any waivers granted and the reasons therefore.

G. Appeals

A final decision by the Planning Board may be appealed by the applicant, any abutting landowner, or any aggrieved party, to the Board of Appeals as outlined in the *Ordinance to Establish Town of Albion Board of Appeals*. An appeal of final action shall be commenced within thirty (30) days of the date of the decision.

Article V. General Land Development Standards

The following standards shall be utilized by the Board in reviewing applications for subdivision and site plan approval. The standards are not intended to discourage creativity, invention and innovation. The Board may waive standards in this section upon a determination that they are not applicable to the proposed development, or that the proposed development will achieve the objectives of this Ordinance with a different design.

1. Air Pollution

The proposed development shall not create an emission of dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property, at any point beyond the lot line. All such activities shall also comply with applicable federal and State regulations.

2. Buffer Areas and Screening

A. Buffering of Adjacent Uses: A buffer shall be provided between any existing residential use or property and any proposed activity that, by the presence of noise, dust, light, traffic, or industrial activity, would have a deleterious effect on residential uses. A buffer shall also be established in cases where the proposed activity would pose a potential attraction to children.

- (1) A visual buffer must be designed to provide a year-round visual screen of all portions of the development in order to minimize impacts. It may consist of fencing, evergreens, berms, rocks, boulders, mounds, or a combination thereof.
- (2) The width of the buffer may vary depending on the density of development. Within the Village District, a buffer with dense plantings, fencing, or changes in grade should be ten (10) feet to fifteen (15) feet in width. In growth and rural areas, the vegetated buffer should be a minimum of twenty-five (25) feet in width.
- (3) Areas adjacent to service, loading, or storage areas should be screened by dense planting, berms, fencing, or a combination thereof sufficient to substantially eliminate the visual appearance of the area.
- (4) Sites with outside storage of materials such as stacks of inventory, junkyards, refuse piles, or with external machinery or dangerous site conditions, shall be secured with fencing or other means sufficient to deter small children from entering the area.

B. Screening of Parking Areas: Outside of the Village District, where the area between the street and the front of the building is used for parking or vehicle movement, separation or buffering must be provided to avoid distraction to motorists from movement or glare in the parking lot and to provide distinct points of access into the site. Unless the parking areas are located more than fifty (50) feet from the road, a buffer providing at least three (3) feet of height along the length of the parking area shall be established. The buffer may consist of a vegetative hedge, berms, walls, fences, or any combination thereof.

3. Comprehensive Plan

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

4. Exterior Lighting

- A. All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways.
- B. Overhead lighting shall be hooded or shielded to prevent spillage of light onto public roads or neighboring properties.
- C. Lighting fixtures shall be arranged to minimize glare and reflection on adjacent properties and the traveling public. Illumination of signs by external fixtures shall be arranged so that the lighting element cannot be seen from a public road.

5. Financial and Technical Capacity

The applicant must have adequate financial and technical capacity to meet these standards. Adequate financial capacity may be demonstrated by the development of an estimate of construction costs to be incurred and a plan for providing or obtaining the resources necessary to meet the costs. The applicant will provide names and addresses of contractors, engineers, or other professionals retained for the development or describe the process by which such individuals will be hired.

6. Ground Water Quality and Quantity

A. Protection from Agricultural Contamination

In order to minimize conflicts between commercial agriculture and other land uses, no water supply well shall be located closer than fifty (50) feet from the property line on which active farmland is located. The Board may require additional separation distance if there is evidence of groundwater contamination in the area.

B. Protection of Groundwater and Aquifers

- (1) The development will demonstrate that it will not increase the contaminant concentration in the groundwater to more than the State's Primary Drinking Water Standard or Secondary Drinking Water Standard, nor will it decrease the quantity of ground water available on nearby properties below that needed to support existing uses, potential expansions of existing uses or allowable uses.

If ground water contains contaminants in excess of the primary standards, the applicant shall demonstrate how water quality will be improved or treated. If ground water contains contaminants in excess of the secondary standards, the development shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

- (2) The location of septic systems and wells shall be determined according to the direction of ground water flow, so that contamination of wells by septic systems is avoided.

(3) Provisions applicable to Commercial Development:

- a) For above ground fuel storage, chemicals, industrial wastes, and potentially harmful raw materials, an impermeable diked area shall be provided; the diked area must be sized to contain the total volume of fuel tanks and piping; roofed to prevent accumulation of rainwater in the diked area and shall be properly vented. There shall be no drains in the facility. All concrete shall be designed by a professional engineer registered in the State of Maine when required by the Board.
- b) Underground petroleum tanks shall be installed in accordance with the standards adopted by the Maine Board of Environmental Protection.
- c) Commercial development subject to these provisions shall provide the Board with a list of chemicals associated with the business that could be a threat to water quality. The development will develop a Spill Prevention Control and Cleanup Plan in accordance with 38 MRSA, §1318-C.
- d) Permits granted to businesses required to have a Spill Prevention Control and Cleanup Plan shall contain a condition that the Code Enforcement Officer shall periodically inspect to verify their compliance with the provisions of this section. Any costs incurred in verification shall be borne by the business.

C. Ground Water Assessments

An assessment of the impacts of the development on ground water may be required by the Planning Board if the development will be located over a mapped sand and gravel aquifer, or if the development involves extraction of groundwater to be used off-site. The assessment shall be prepared by a certified geologist or registered professional engineer and shall include the following:

- i. a map showing the basic soil types;
- ii. the depth to the water table at representative points throughout the development and presumed ground water flow directions;
- iii. drainage conditions throughout the development;
- iv. data on the existing ground water quality and availability, either from test wells in the development or from existing wells on neighboring properties;
- v. an analysis and evaluation of the effect of the development on ground water resources. The evaluation shall, at a minimum, include a projection of post development water quality and quantity, including fluctuations in water table levels and nitrate concentrations.
- vi. a map showing the location of any subsurface wastewater disposal systems and drinking water wells within the development and within 200 feet of the development boundaries.

7. Lot Shape

- A. No newly created subdivision lot shall have a ratio of length to width of greater than 3:1 without approval of the Planning Board.
- B. No lot which fronts on a river, stream, or pond shall have a ratio of lot depth to shore frontage of greater than 5:1.

8. Natural Resource Protection

A. Landscape Preservation

- (1) The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction.
- (2) No significant change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on the approved plan.
- (3) Environmentally sensitive areas such as significant wildlife habitat, wetlands, steep slopes, floodplains, historic buildings and sites, existing and potential archaeological sites and unique natural features will be maintained and preserved to the maximum extent as deemed by the Board.
- (4) Natural drainage areas will be preserved to the maximum extent as deemed by the Board.

B. Scenic Area Protection

- (1) The Albion Comprehensive Plan identifies twelve priority scenic areas in Albion. These areas are listed below and marked on the *Official Land Use Map*.
 - i. Pratt Brook Gorge along the Knights Road
 - ii. view from Quaker Hill
 - iii. Mill Stream from Taylor Road to Lovejoy Pond
 - iv. view of village area from Shores Hill
 - v. view of village from Unity Road near #4 Cemetery
 - vi. view from Libby Hill
 - vii. view of Lovejoy Pond from Back Pond Road
 - viii. view of Lovejoy Pond from Pond Road
 - ix. view from Quimby Road
 - x. view from Drake Hill
- (2) In the course of review of any application for a commercial development or subdivision within the immediate vicinity of a scenic area, the Planning Board shall encourage the developer to design the project in such a way as to minimize negative impacts on the viewscape. Compliance with such suggestions shall be voluntary except as provided in (3).

- (3) Wireless telecommunication facilities are prohibited from locating within the immediate vicinity of a scenic area.

C. Unique Natural Areas

- (1) This standard intends to preserve rare, fragile or endangered species of plant and animal life and habitat. It applies to areas identified by the Maine Natural Areas Program as locations of habitat for endangered or threatened species of plants or animals, natural communities, or Beginning with Habitat Focus Areas. Unique Natural Areas identified as of the date of enactment of this Ordinance are mapped on the *Official Land Use Map*.
- (2) If a development is determined to be located within or adjacent to a unique natural area, the applicant shall provide setbacks, disturbance rules, or other management techniques for the preservation of the area.

9. Noise

- A. The proposed development shall not raise noise levels to the extent that abutting and/or nearby residents are adversely affected. Any development likely to generate loud or unusual noise, including but not limited to manufacturing facilities and power substations, shall provide the Planning Board with a projection of noise to be generated and proposed methods of noise attenuation or reduction.
- B. The estimated sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity on the site shall be limited by the time period and by the abutting land use as listed below. Sound levels shall be measured at least four (4) feet above ground at the property boundary of the source.

Sound Pressure Level Limits Using the Sound Equivalent Level of
One Minute (leq 1) (Measured in dB(a) Scale)

Abutting Use	7 am - 9 pm	9 pm - 7 am
Residential	55	45
Public, semipublic and institutional	60	55
Vacant or rural	60	55
Commercial	65	55
Industrial	70	60

Construction activities on a site abutting any residential use, shall limit external noise production to between the hours of 7:00 A.M. and 9:00 P.M.

10. Odor

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

11. Public Services

- A. The development will not have an unreasonable adverse impact on public services and facilities including local roads, fire protection, emergency services, solid waste facilities, schools, recreational programs and facilities and other municipal services and facilities.
- B. The proposed development will provide for adequate disposal of solid waste. If the additional solid waste from the proposed development will cause undue strain on the Town's solid waste disposal system, the applicant will make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the applicant to enter into a contractual arrangement exceeding a period of five years.
- C. All hazardous and/or special wastes will be disposed of at a licensed waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.
- D. The applicant must submit evidence that proposed fire protection measures are adequate, in the form of a written statement from the fire chief that the proposed development will not exceed the capacity of his/her department to provide adequate protection. The fire chief may recommend additional protective improvements, including but not limited to fire ponds, dry hydrants, fire lanes, separation of flammable wastes, or sprinkler systems.
- E. Commercial development must be designed to provide protection from the spread of fire. At a minimum, the requirements of NFPA – 1 and NFPA – 101 must be met. Whenever possible, a key box security system should be installed, and may be required on some projects.

12. Sewage Disposal

The development shall provide for a suitable sewage disposal. All individual on-site systems will be designed by a licensed soil evaluator in compliance with the *State of Maine Subsurface Wastewater Disposal Rules*. Upon the recommendation of the Local Plumbing Inspector, the Board may require identification and protection of reserved areas for replacement systems on individual lots.

13. Signs

All signs shall comply with the provisions of the Maine Traveler Information Services Act, 23 MRSA §1901 et seq.

14. Subdivision Design Options

A. Purpose

This standard provides the developer of a subdivision two options for dimensional standards in order to provide flexibility in design. Because the Albion Comprehensive Plan and community standard places emphasis on retaining tracts of open space over large individual lots, this standard provides the developer a density incentive for the open space design option.

B. Dimensional Standard Options for Subdivision Lots

New lots created within subdivisions of land (other than mobile home parks) shall comply with the dimensional standards in Table V-1, below, according to the appropriate district and design option chosen:

TABLE V-1: Minimum Dimensional Standards For Subdivision Lots				
Performance Area	District			
	Village and Growth Areas		Rural Area	
	Traditional Design	Open Space Design	Traditional Design	Open Space Design
Maximum Project Density	1.5 acres/unit	1 acre/unit	3 acres/unit	2 acres/unit
Minimum Lot Size	1.5 acre	.75 acre	3 acres	1 acre
Minimum Frontage: Public Road	200' 150'	150' 75'	300' 200'	200' 150'
Minimum Setbacks: Front	50' 30'	30' 15'	100' 50'	50' 20'
Minimum Screening/ Landscaping: Front Side	25% 25%	0 0	35% 35%	10% 0

C. Traditional Design Option

Subdivisions of land may be designed in a traditional fashion with individual lots. Such lots must meet the “Traditional Design” dimensional standards for the district, as shown above. Minimum lot sizes shall be 1.5 acres in the Village and Growth Areas and 3 acres in the Rural Area.

D. Open Space Design Option

- (1) The Town offers a density incentive to subdivisions designed to encompass a significant portion of the land within an area contiguous and protected from future development. This allows development to take place at greater densities -- 1 acre per housing unit in the Village and Growth Areas, and 2 acres per housing unit in the Rural Area.
- (2) Open space created by this design may be used for agriculture, forestry, non-commercial recreation, conservation and comparable low-intensity, nonstructural uses. Wherever possible, a portion of the reserved land shall be located along public road frontage. There shall be no further subdivision of the protected open space. Easements and installation of public utilities may be permitted.
- (3) The minimum percentage of open space within the tract required for density bonus eligibility shall be 33% in the Village and Growth Areas, and 50% in the Rural Area.

No more than half of the land set aside may consist of land otherwise unavailable for development such as wetland, floodplain, water bodies, or land within setbacks, buffer strips or rights-of-way.

- (4) The reserved open space may be retained by the original landowner or sold or leased to a third party, provided that deed restrictions on the land prohibiting further development must be approved by the Planning Board at the time of subdivision and recorded in the Registry of Deeds. The reserved land required shall be shown on the subdivision plan, with calculations showing the percentage of the tract to be designated as open space. *(This would allow a farmer, for example, to continue to own land protected from development, while subdividing and selling a portion of the parcel).*
- (5) The reserved open space may be owned in common by a homeowners' association or deeded to a land trust or conservation organization. The reserved land required shall be designated and shown on the subdivision plan as "open space not to be further subdivided or developed."
- (6) A statement of the use, ownership, entity responsible for paying property taxes, and maintenance provisions, shall be submitted to the Planning Board for approval. If any or all of the open space is to be reserved as common open space for use by the residents, the bylaws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to subdivision approval. The developer or subdivider shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association has taken place.

- E. Mobile Home Parks and Multi-Family Buildings
 - (1) Dimensional requirements for Mobile Home Parks are determined by State law 30-A MRSA §4358 and Article VII, Section 5 of this ordinance.
 - (2) Dimensional requirements for Multi-family buildings are as required under Article VII, Section 6 of this Ordinance.

15. Surface Waters

A. General Standard:

Development will not result in undue surface water pollution. The Board shall at least consider the elevation of land above sea level and its relation to floodplains, the nature of soils and, if necessary, their ability to adequately support waste disposal and/or any other approved licensed discharge; the slope of the land and its effect on drainage.

B. Erosion Control Plan

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized. When a development involves alteration of the ground surface or construction of structures, an Erosion Control Plan shall be developed and implemented. The Erosion Control Plan shall meet the standards of *Maine Erosion and Sedimentation Control BMP's*, published by Maine DEP (March, 2003 or as revised).

C. Stormwater Management Plan

- (1) Where the development includes streets or parking areas, a Stormwater Management Plan shall be prepared by a professional engineer registered in the State of Maine. The Stormwater Management Plan shall meet the standards of *Stormwater Management for Maine*, published by Maine DEP (2006 or as revised).
- (2) All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the two (2) year and the twenty-five (25) year, twenty-four (24) hour duration, frequencies, based on rainfall data for Kennebec County. When the development discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
- (3) For projects including structural treatments, such as detention ponds, a Stormwater Maintenance Agreement shall be prepared, indicating how stormwater management structures will be maintained through the course of their projected life.

D. Lovejoy Pond Watershed

When a proposed development is within the direct watershed of Lovejoy Pond, the phosphorus export from development shall be equal to or less than .073 pounds per acre per year. The Department of Environmental Protection manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, (September 1989, or as revised) shall be used for calculating, designing, and evaluating phosphorus controls.

E. Development in the Floodplain

Any structural development in the floodplain shall comply with the provisions of the *Floodplain Management Ordinance for the Town of Albion*, (2009, or as amended).

16. Survey Monuments

Stone or concrete monuments or iron pins shall be set at all corners and angle points of lots to be created and at intersections or angle points of any rights-of-way. Stone or concrete monuments shall be a minimum of four (4) inches square, and set so that the top is within four (4) inches of the ground surface. All monuments shall bear the name and license number of the surveyor who installed them.

Article VI: Land Development Standards for Roads, Parking and Access

1. Design and Construction of Roads

These standards shall apply to the construction of all new roads within the Town of Albion.

Nothing in this Ordinance shall be construed to preclude the design and construction of roads that meet higher construction standards than those described herein.

A. Public Acceptance of Roads

- (1) The approval by the Planning Board of a proposed road designed to “public road” standards shall not be deemed to constitute or be evidence of acceptance of the road by the Town of Albion. Acceptance of a proposed public road shall only be by an affirmative vote of a Town Meeting.
- (2) No road shall be offered for acceptance to the Town unless and until it meets the minimum standards outlined in Section E below.

B. General Standards (applicable to all roads)

- (1) All public and major private roads shall be designed by a professional engineer, registered in the State of Maine, and shall be built according to accepted engineering standards. No road shall be constructed until approval has been granted by both the Road Commissioner and Planning Board.
- (2) Intersections with public roads:
 - a) The desired angle of intersection shall be 90 degrees. The minimum angle of intersection shall be 75 degrees.
 - b) The maximum grade desired within 75 feet of the intersection shall be 2%.
- (3) Dead End Roads:
 - a) The maximum length of dead end roads shall be 2,000 feet.
 - b) Dead end roads serving more than four dwelling units, or greater than 1,000 feet in length, shall have a turnaround.
 - c) If a cul-de-sac style turnaround is used, the right-of-way shall have at least a 75-foot radius and the road surface shall have at least a 60-foot radius at the outside.
 - d) If a hammerhead-style turnaround is used, it shall be located within one

hundred (100) feet of the end of the road, and shall be a minimum of sixty (60) feet deep and constructed to the same specification as the road.

- (4) When crossing brooks or streams, adequate erosion control measures shall be taken to prevent sedimentation of the water. Culvert design and installation shall be as provided in the Stormwater Management Plan.
- (5) The design of roads shall provide for proper continuation of roads from adjacent development and proper projection of roads onto adjacent undeveloped land.

C. Public Roads: Minimum Standards

- (1) The following minimum design standards apply to the construction of improvement of public roads. A “collector or commercial” road is one which serves twenty (20) or more dwelling units or a commercial building. A “minor” road serves fewer than twenty dwelling units.

Description	TYPE OF ROAD	
	Collector or Commercial	Minor
Minimum Right of way width	60'	50'
Minimum Pavement width	24'	20'
Minimum grade	.5%	.5%
Maximum grade *	6%	8%
Minimum centerline radius	250'	150'
Minimum tangent between curves	100'	50'
Roadway crown	1/4"/Ft.	1/4"/Ft.
Shoulders (each side)	5'	3'

* Maximum grade may be exceeded for a length of 100 feet or less.

The center line of the roadway shall be the center line of the right of way.

- (2) All roads proposed to be dedicated to the Town shall be paved as provided below. Paving materials and gravel grading shall conform to standards of *State of Maine Department of Transportation Standard Specifications* (November, 2014 or as revised).

Material Description	TYPE OF ROAD	
	Collector or commercial	Minor
Aggregate Sub base course (Max. Sized stone 4")	24"	15"
Crushed Aggregate Base course	4"	3"
Hot Bituminous Pavement		
Surface Course	2"	1 1/2"
Base Course	4"	2 1/2"
Total Thickness:	6"	4"

- (3) The planning board may require sidewalks be provided along the street if sidewalks already exist on abutting property. Sidewalks shall be a minimum of five (5) feet in width and be constructed in accordance with ADA standards.

- (4) For commercial developments expected to generate 200 trips per day (see section VI.5, below) or more, or residential subdivisions with 20 or more lots or dwelling units, there shall be at least two entrances from public roads.

D. Private Roads: Minimum Standards

Private roads are barred by law from receiving public expenditures for either summer or winter maintenance, but must be designed, constructed and maintained in sufficient condition for access by emergency services.

- (1) Where proposed roads are to be privately-owned, the following words shall appear on the recorded plan: “*All roads shall remain private roads to be maintained by _____ and shall not be offered for acceptance or maintained by the Town until they meet the applicable public road design and construction standards.*”
- (2) Maintenance responsibility for the road(s) shall be assigned to a homeowners’ association, in the case of a residential subdivision, or a corporate entity in the case of a commercial development. Provisions for funding maintenance of the roads shall be submitted to and approved by the Planning Board prior to permitting.
- (3) Except as provided below, private roads shall meet the standards for minor public roads, except for maximum grade and shoulder width, and that paving is not required. However, if paving is provided, it shall meet the specifications of Section VI.1.C(1) above.
- (4) Private roads serving fewer than four (4) structures may be designed with a single travel lane at least fourteen (14) feet in width, no shoulder width, and a gravel base of no less than twelve (12) inches.
- (5) Private roads within a mobile home park shall be designed to the standards of Article VII, Section 5.C(3) of this Ordinance.

2. Design and Construction of Driveways

- A. The Road Commissioner shall inspect the proposed driveway placement for sight distance (*see* section 3.C, below) and determine the need for a culvert. A letter from the Road Commissioner shall be submitted as part of the application package for any land use or development permit.
- B. Culverts purchased by the applicant shall be installed after approval by the Road Commissioner. The Road Commissioner will also conduct a final inspection for compliance once the culvert has been installed.
- C. Culverts shall be no smaller than 15” in diameter. The Road Commissioner may require a larger diameter if deemed necessary, and may specify a longer runout or other design measures to reduce erosion potential.
- D. Common driveways may serve two single-family dwelling units without being

considered a minor private road.

- (1) The Road Commissioner and Code Enforcement Officer shall review the proposed common driveway before a Land Use Permit is issued.
- (2) Deeds to lots proposed to be accessed by a common driveway shall include a driveway maintenance agreement.

3. Access to Property

- A. Proposed developments shall provide safe access to and from public and private roads. Safe access shall be assured by providing suitable location for access points, with respect to sight distances and intersections.
- B. Any development proposing access onto a state road shall obtain a driveway, entrance, or traffic movement permit from the Maine Department of Transportation. A copy of the permit shall be provided to the Planning Board.
- C. Any road or driveway entering onto a public road shall be so designed in profile and grading and so located as to provide the minimum sight distance in each direction.

The minimum sight distance from a proposed entrance (in feet) shall be 10 times the posted speed limit (in MPH) on the existing road, or 350 feet if no speed limit is posted. Sight distance is measured from a point ten (10) feet behind the curb or edge of shoulder, with the height of the eye 3.5 feet above the pavement and height of object 4.25 feet. Where necessary, the land bordering the intersection shall be cleared of perennial growth and sight obstructions to achieve the required sight line.
- D. Access points to existing public roads shall be minimized. Development shall be designed so that lots are accessed through lesser roads, where applicable. Curbcuts shall be limited to the minimum width necessary for safe entering and existing. Where common access is not provided, a single lot shall be limited to two curbcuts.
- E. The centerline of any new road or commercial driveway intersecting an existing public road shall be at least 125 feet from the centerline of any other street intersecting that road, unless it is located directly across from that intersection.
- F. If a proposed development is projected to generate more than 300 vehicular trips per day, as estimated using section VI.5, below, a traffic impact analysis completed by a professional engineer with experience in traffic planning shall be provided at the time of review.

4. Internal Circulation and Parking

- A. Commercial and other non-residential development shall provide an internal system of circulation and parking sufficient to accommodate expected vehicles without parking on the street.
 - (1) On-site parking will be arranged so that it is not possible for vehicles to back

directly onto a street. The driveway shall be designed so that vehicles do not have to wait on the street for drivers to pull into or out of parking spaces.

- (2) The layout and design of parking areas must provide for safe and convenient circulation of vehicles and pedestrians throughout the lot.
 - (3) Projects that will be regularly served by delivery trucks must provide a clear route with appropriate geometric design to allow for turning and backing of an appropriate vehicle length without impeding normal vehicle circulation or obstructing access to parking spaces.
 - (4) A clear route of access must be provided and maintained for emergency vehicles to and around buildings. Snow shall not be stored on-site in locations that may impede emergency vehicles.
 - (5) Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in the area of the site adjacent to a pre-existing home. Communication systems must not be audible to adjacent homes. Vehicular access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. Adequate queuing space must be provided to prevent any vehicles from having to wait on a public street, within the entry from the street, or within designated parking areas.
- B. Adequate parking capacity shall be provided for the reasonable expectations of business at the site.
- (1) The table overleaf shall be used as a guide for the provision of sufficient parking spaces. The planning board may modify parking requirements consistent with the objective to reduce impervious surface and environmental impact. For uses not listed in the table, the publication *Parking Demand* (ITE, 1987 or most recent edition) shall be consulted.

(2)

TABLE VI - 1: On-site Parking Requirements	
# of Spaces	Land Use Activity
<i>Places of Residence or Accommodation</i> -- spaces per room or dwelling unit	
1/3	Dedicated Retirement Home, Nursing Care Facility
1	Overnight accommodations
1.5	Multifamily buildings
<i>Places of Public Assembly</i> -- spaces per seat based on maximum seating capacity	
1/4	Theater, with fixed seating
1/3	Religious Institution, Restaurant (except fast food)
1/2	Convention Center, Meeting Hall, Grange, Bottle Club
<i>Places of Commerce and Industry</i> -- spaces per 1,000 sq.ft. of gross floor area.	
1	Warehouses, including self-storage
1 1/2	Industrial and Manufacturing Facilities, furniture and appliance stores
3	Grocery Stores over 5,000 sq.ft., Offices, except as noted.
3.5	Retail Sales, except as noted
5	Banks, Medical, Dental, and Veterinary Offices, Fitness Clubs, Child Care
6	Fast food restaurant, snack bar
<i>Public and Institutional Facilities</i> -- spaces per 1,000 sq.ft. of gross floor area	
2	Elementary Schools, Library, Museum
4	Other education – classroom area only, Community Center, Municipal Office.
6	Hospital
<i>Miscellaneous</i> -- criteria as specified	
1 per 1,000 sf	Indoor Sports Facility (Tennis, Fitness, etc.) -- no spectators
1 per 4 seats, based on max seating capacity	Stadiums, Arenas, Racetracks, and other spectator sport venues
30 per acre	Mini-golf, Go-Carts, and other Outdoor Amusements
4 per lane	Bowling Alley
3 per service bay 1 per 10 vehicles displayed	Motor Vehicle Sales or Service

- (3) Within each development, at least one parking space, plus one for every 25 spaces, shall be provided and designated for handicapped access.
- (4) Where the proposed development is for expansion of or addition to an existing use that will continue, the requirement for parking spaces will include sufficient spaces for the existing use, even if it did not previously have sufficient spaces.

- (5) Where multiple uses of the lot or building are proposed, the requirement shall be the sum of the requirements for the separate uses. Where a building or use consists of multiple functions, such as a church with school, each separate function shall be calculated independently, except that when one of the uses is residential, no additional spaces shall be required.
- (6) The Board may permit phased installation of parking spaces provided that adequate provision is made for the development of these spaces as needed in the future. The approval shall specify conditions for phasing, such as a permanent set-aside of adequate land area, and a schedule showing under what conditions the additional required parking shall be provided.
- (7) Area devoted to parking for vehicles used in the ordinary conduct of the business, such as construction vehicles, tractor-trailers, and vehicles displayed for sale, shall not be included in the above calculations.

C. Dimensional Standards for aisles and parking spaces:

- (1) Parking lots and access drives are not required to be paved unless the planning board determines that it is necessitated by the volume of vehicle traffic. If paving is required, it shall conform to the standards of section 1.C.(1) of this article for minor streets.
- (2) Parking spaces do not need to be designated on unpaved parking lots; however, the site plan shall show adequate parking layout and aisle width.
- (3) Parking spaces shall measure a minimum of ten (10) feet in width by twenty (20) feet in length for spaces angled at 90 degrees from the travel aisle. Spaces designated for handicapped parking shall measure twelve and a half (12.5) feet in width by twenty (20) feet in length.
- (4) Parking spaces installed at an angle other than 90 degrees from the travel aisle shall be designed so that a ten-by-eighteen foot rectangle can be placed within each one, except that stalls parallel to a travel aisle shall measure ten (10) feet in width by twenty-two (22) feet in length.
- (5) Parking aisles shall twenty (20) feet in width if designated for two-way traffic, and sixteen (16) feet in width if restricted to one-way traffic. One-way aisles shall be so marked.
- (6) Bumper stops or other devices shall be used to prevent parking vehicles from interfering with pedestrian walkways, drainage ways, or landscaping.

5. Sidewalks

- A. If a paved sidewalk exists on property abutting the development, it shall be extended into the development. Additional sidewalk will connect the installed sidewalk with the primary entrance to the development.
- B. Paved sidewalks shall consist of bituminous or Portland Cement concrete placed over an adequate base of crushed gravel.
- C. A pedestrian connection must be provided from parking areas to building entrances in such a fashion that pedestrian safety is preserved. In unpaved parking lots, signage shall be installed warning motorists of pedestrians crossing at critical points.

6. Vehicle Trip Generation Calculations

A. Trip Generation Estimates

Trip generation estimates are provided in this Ordinance as a mechanism for projecting the impact of a prospective development within the Town of Albion. Estimates are intended to utilize available existing data to anticipate the traffic to be generated by development based on the type of use.

B. Daily Trip Generation by Land Use

Table VI-2, below, provides trip estimates according to the land use proposed. For land uses not listed, the publication *Trip Generation Manual*, published by the Institute of Transportation Engineers (2014 or as revised) may be used. For any development within the village area, the trip estimate may be reduced by ten (10) percent to allow for walk-in traffic.

Table VI-2: Example Daily Trip Generation Rates by Land Use		
Land Use Type	Trip Generation per unit	Size of building necessary to generate 100 trips
General Retail	39.8 per 1,000 square feet (sf)	2,500 square feet (sf)
Grocery/convenience	94.8 per 1,000 sf	1,000 sf
Gas Station	135 per pump	1 pump
Auto Repair	15 per 1,000 sf	6,700 sf
General Office	11.5 per 1,000 sf	8,700 sf
Medical/dental Office	35.7 per 1,000 sf	2,800 sf
Day Care	30 per 1,000 sf	3,300 sf
General Manufacturing	9.7 per 1,000 sf	10,300 sf
Warehouse	3.0 per 1,000 sf	33,300 sf
Hotel/motel	4.7 per room	22 rooms
Restaurant	75 per 1,000 sf	1,300 sf
Fast Food/drive-through	338 per 1,000 sf	300 sf
Bank	121 per 1,000 sf	800 sf
Places of Public Assembly	9.7 per 1,000 sf	10,300 sf
Apartments	0.65 per unit	16 units
Mobile Home Park	0.60 per unit	17 units

Article VII: Specific Use Performance Standards

1. Backlots

A. The Town allows limited development on backlots existing at the time of enactment of this Ordinance.

- (1) Any buildings proposed to be placed on a backlot shall be located at least 250 feet from a public road.
- (2) If developed according to the point system, the application shall be granted 1/2 point for road frontage and 1 point for front setback.

2. Mineral Extraction

A. Applicability

Mineral extraction operations which anticipate removal of more than one hundred (100) cubic yards of material are required to obtain a land use permit from the planning board. Because the nature of mineral extraction operations is to grow, a permit may be issued for no more than five (5) years. Permits are fully renewable based on a new site plan. Operations already in existence on the effective date of this ordinance must obtain a permit within five (5) years of the effective date. *(Note: Gravel pits with excavation of five acres or more are also subject to performance standard review under Chapter 378 of the rules of the Maine Department of Environmental Protection).*

B. Performance Standards

- (1) Whenever possible, oil changes and refuelings should not take place in the extraction area or over the aquifer. In the event of such occasions, or in the case of an accidental leak, absorbent pads shall be kept on site and utilized to minimize pollution.
- (2) There shall be no storage or dumping within the extraction area of any substances that could produce harmful leachate, unless such substances are placed under cover and on an impermeable, spill-proof base. Such potentially harmful substances include, but are not limited to salt, rubbish, creosoted timber and petroleum products.
- (3) Disturbance of Ground or Surface Water
 - a) In order to preserve the natural ability of the soil to act as a filtering and absorption media in an aerobic environment, and to prevent the evaporative water losses that are associated with ponds, all extraction shall conform to the following limitations unless a waiver has been obtained from the Planning Board.
 - i. No material shall be excavated below a position that is two feet above the seasonally high-water table; and

- ii. No ditches, trenches, pumping or other methods shall be used to lower the water table to permit more extraction than could occur under natural conditions.
 - b) If excavation is to be conducted within two feet of the water table, the applicant must demonstrate that both of the following conditions exist:
 - i. The applicant must prove that no reasonable alternative exists to excavate without disturbing ground or surface water; and
 - ii. The applicant must prove that no harm will result to ground water from the proposed excavation.
 - c) The Planning Board may require the applicant to hire, or may directly hire at the applicant's expense, a hydro geologist or other expert to render a professional opinion before granting a permit for the excavation.
- (4) Access to the operating area shall be strictly controlled at all times, where feasible with locking gates. When operations are finished, all vehicular entrances shall be made impassable.
- (5) Any open-pit excavation shall be conducted so that:
 - a) The average slope from any cut bank measured from a point located 10 feet from the boundary of any abutting property to the bottom of the cut bank in the pit shall not exceed a horizontal to vertical ratio of 2:1. The owner of the pit is responsible for maintaining this condition.
 - b) The top of the cut bank of the pit shall, at no time, be closer than 10 feet from the property boundary of any abutting landowner.
- (6) Reclamation.
 - a) A reclamation plan will be provided which will show any areas on which operations will be completed over the five-year period and a plan to reclaim the area. "Completed" means that less than one hundred (100) cubic yards of material are removed over a twelve (12) month period.
 - b) Within twelve (12) months following completion of excavation operations, ground levels and grades shall be established so that the restored drainage exits the site resembling pre-development drainage volume and location.
 - c) Final slopes on the reclaimed area shall not exceed two feet horizontal to one foot vertical (2:1).
 - d) All ground surfaces shall be stabilized according to best management practices described in *Maine Erosion and Sediment Control BMP's* (DEP, 2003 or as revised.)

3. Home Occupations

- A. Home occupations do not require a land use permit provided that they are conducted within an existing residential use and conform to the following guidelines:
- (1) A home occupation shall be carried out without altering the residential character of the home or changing the character of the lot from its principal use as a residence.
 - (2) A home occupation shall be carried on by the residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.
 - (3) A home occupation shall not generate any nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, radiation, fumes, or electrical interference with normal radio or television reception, or cause other nuisances which extend beyond the limits of the subject property.
 - (4) A home occupation shall not generate any substantial increase in daily or seasonal traffic.
- B. A commercial enterprise which does not meet the definition of home occupation, or cannot meet the standards of this section, may still be allowed, but must apply for the appropriate permit.

4. Mobile Home Parks

A. Applicability

The provisions of this section shall pertain to all mobile home parks and mobile home park expansions within the Town.

B. Dimensional Standards

- (1) Minimum dimensional standards for mobile home park lots are outlined in the following table, except as further described in Subsections 2-4 below:

TABLE VII-1: Minimum Dimensional Standards For Lots Within Mobile Home Parks		
Performance Area	District	
	Village and Growth Areas	Rural Area
Minimum Lot Size*:		
Individual septic system	20,000 square feet	20,000 square feet
Central septic system	7,500 square feet	12,000 square feet
Minimum Frontage:		
Individual septic system	100'	150'
Central septic system	75'	100'
Minimum Setbacks:		
Front	20'	40'
Side and Rear	10'	20'

**The applicant must also satisfy the requirements of the State Plumbing Code for adequate well and septic system placement, and shoreland setbacks for any lots located within a shoreland zone.*

- (2) Mobile homes located on lots adjacent to a public road shall be set back 30 feet in the Village and Growth Areas, and 50 feet in the Rural Area.
- (3) Carports of non-combustible materials are not subject to side setback requirements.
- (4) To avoid monotony, the Planning Board may allow front setbacks on a road within the park to be varied, provided that no home may be closer than ten (10) feet from the right-of-way and the average setback distance is at least twenty (20) feet in the village and growth areas and forty (40) feet in the rural area.
- (5) All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50 percent of the lot area.

C. Roads and Parking

- (1) For each mobile home lot there shall be provided and maintained at least 2 off-street parking spaces. This requirement may be waived if an equivalent number of spaces is provided in a central parking area.
- (2) In addition to occupant parking, off-street guest and service parking shall be provided within the boundaries of the park at a ratio of one (1) space for each four (4) lots. Such parking shall have a gravel or paved surface.
- (3) Private roads within the park shall be located within a right-of-way of at least twenty-three (23) feet in width. Roads shall be built to the standards developed by the Maine Manufactured Housing Board.

D. Sanitation and Utility Requirements

- (1) 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.
- (2) For parks that do not have individual on-site wells, the water supply distribution system shall be designed by a professional engineer, registered in the State of Maine.
- (3) For parks that do not have individual on-site wastewater disposal systems, the wastewater collection system shall be designed by a professional engineer, registered in the State of Maine.

E. Conversion of Park Lots

No lot in a mobile home park may be sold or otherwise conveyed without the prior approval of the Planning Board. Any mobile home park lot so conveyed shall meet the dimensional requirements outlined in Article III, Table III-1 of this Ordinance.

F. Park Administration

- (1) The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to State laws.
- (2) Compliance with this Ordinance shall not exempt the park owner, developer or manager from complying with other applicable local, state and federal codes and regulations.

5. Multiple Dwelling Units on a Lot

A. Accessory Apartments

- (1) Accessory apartments are allowed in all districts following issuance of a Land Use Permit by the Code Enforcement Officer.
- (2) Accessory apartments shall conform to all provisions of the Maine State Plumbing Code and no dwelling that is served by an on-site wastewater disposal system shall be modified to create an accessory apartment until a site evaluation has been conducted by a licensed site evaluator which demonstrates either that the existing system can handle both dwelling units or that a new system can be installed to meet the disposal needs of both dwelling units.
- (3) The applicant shall demonstrate that adequate off-street parking will be provided.
- (4) The principal dwelling unit must be owner-occupied. There are no restrictions on occupancy of the accessory apartment.

B. Conversion of a Single-family Home to Multi-family

The conversion of an existing residence to a multi-family dwelling, that otherwise would not meet the dimensional and/or parking requirements for a new structure, may be allowed under a Land Use Permit granted by the Planning Board. The following conditions must be met:

- (1) The conversion shall not create more than two new dwelling units in any structure (creation of more units requires subdivision approval).
- (2) The converted residence shall retain the appearance of a single-family dwelling, with the exception of a second floor emergency egress, if applicable.
- (3) Adequate off-street parking shall be provided.
- (4) Adequate provision shall be made for the disposal of sewage, waste and drainage generated by the use. Subsurface sewage disposal shall comply with all provisions of the *State of Maine Subsurface Wastewater Disposal Rules*.

C. Multi-family Buildings/Apartments

- (1) The development of multi-family buildings is permitted in all districts upon review as a subdivision. Dimensional requirements shall be as follows:

TABLE VII-2: Dimensional Standards For Multi-Family Buildings			
	District		
	Village Area	Growth Area	Rural Area
Lot Size*	1 acre plus 10,000 square feet for each additional unit after second	1.5 acres plus 15,000 square feet for each additional unit after second	2 acres plus 15,000 square feet for each additional unit after second
Frontage:			
Public Road	150'	200'	300'
Private Road	75'	150'	200'
Setback:			
Front	10'	50'	100'
Side	15'	30'	50'
Rear	15'	30'	50'

**The applicant must also satisfy the requirements of the Minimum Lot Size Law and State Plumbing Code for adequate well and septic system placement, which may require a larger lot size. Also, the applicant must meet the dimensional requirements and performance standards of the Shoreland Zone, if applicable.*

- (2) For developments of more than four (4) units, at least one approved site for a replacement septic system shall be provided. For developments of more than twelve (12) units, at least two approved sites for replacement septic systems shall be provided.
- (3) Adequate off-street parking shall be provided. For conventional multi-family buildings, a minimum of one and a half (1.5) spaces shall be provided for each dwelling unit. For housing that is legally designated elderly housing, the parking requirement may be reduced to one-half (1/2) space per dwelling unit.

6. Seasonal Conversions

- A. A change of use from seasonal to year-round use shall require a new plumbing permit and a land use permit from the Planning Board.
- B. If either the structure or lot is non-conforming, the Planning Board may deny the permit if year-round use would substantially increase the negative impact of the non-conformance.

7. Timber Harvesting

- A. Timber harvesting within the boundaries of the Town of Albion is allowed without a permit with the exception of clearcuts in excess of 5 acres.
- B. Clearcutting of more than 5 acres must be conducted under a harvesting plan submitted by the landowner and approved by the Planning Board. The harvesting plan must describe the erosion control methods to be utilized. Following the clearcut, the State's regeneration standards must be met.
- C. All tree cutting operations must conform to the laws of the State of Maine.

8. Wireless Telecommunication Facilities

A. Applicability

This section shall apply to all development of wireless telecommunication facilities. All new or expanded wireless telecommunication facilities shall be subject to review as per the requirements of this Ordinance. An expansion which consists only of the addition of antennae within previously-approved co-location pads shall not require a formal review process and shall be approved by the Code Enforcement Officer.

B. Materials to be Included in the Application

In addition to the requirements of this Ordinance for all applications, the following information shall be provided:

- i. Name of the owner or operator of the wireless telecommunication facility and the proposed tenants.
- ii. Date the wireless telecommunication facility is proposed to be constructed.
- iii. A description and construction detail of the wireless telecommunication facility including a plan identifying the location of the tower and other structures on the property in relation to existing structures on the subject or neighboring property; dimensions of the tower, and location of structural supports if any. The plan shall also identify any accessory structures that are essential to operation of the telecommunication facility.
- iv. Certification that construction of the structure will meet industry standards and complies with all federal, state and local building codes and other applicable regulations.
- v. Provide documentation of FCC approval and license.
- vi. Provide documentation of FAA approval if applicable.
- vii. Redundant towers shall submit 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.

C. Location

- (1) Wireless telecommunication facilities shall not be sited within the foreground of a scenic area identified by the Albion Comprehensive Plan unless the Planning Board finds that no other location is technically feasible.
- (2) No wireless telecommunication facility shall be located so as to create a significant threat to the health or survival of rare, threatened or endangered plant or animal species.

D. Standards

All wireless facilities shall comply with the following standards:

- (1) A wireless telecommunication facility must be fenced to discourage trespass.
- (2) A wireless telecommunication facility must be constructed of materials and/or colors that blend with the surrounding natural or man-made environment to the maximum extent possible. The facility must be designed to minimize its profile by blending with the surrounding existing natural and man-made environment.
- (3) A new wireless telecommunication facility and related equipment must be designed and constructed to accommodate future expansions for future collocation of at least 3 additional wireless telecommunication devices or providers subject to the height limitation posed by tower design.
- (4) A new wireless telecommunication facility must be illuminated only as necessary to comply with the FAA or other applicable state and requirements. Security lighting may be installed as long as it is as it is shielded to retain light within boundaries of the site to the maximum extent possible.
- (5) The facility and related equipment must be screened from view to a reasonable extent. Tower facilities shall be landscaped with a buffer of plant material that effectively screens the view of the tower compound. In sensitive locations, the buffer shall include evergreen trees that will reach a height of at least 25 feet in a period of 10 years. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound. In locations where visual impact of the tower would be minimal, the landscape requirements may be reduced or waived altogether. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers on large, wooded lots, natural growth around the property perimeter may be sufficient barrier.
- (6) All wireless telecommunication facilities shall be set back a minimum of 105 percent of the antenna height from all residential buildings and from any structures on neighboring property.

E. Abandonment

- (1) The owner of a wireless telecommunication facility shall be required to remove the tower should it not be in service for a period of twelve (12) consecutive months. An applicant for a permit under this section shall post a performance guarantee with the town prior to obtaining a permit that is equal to 125% of the cost of removing the structure. The performance guarantee covering such removal shall be for a minimum term of 5 years. It must contain a mechanism, satisfactory to the town, for review of the cost of removal every 5 years, and a mechanism for increasing the amount of the guarantee should the revised cost estimate show it necessary.

Article VIII. Definitions

1. Construction of Language

- (1) 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.
- (2) The word “person” includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.
- (3) The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.
- (4) The words “shall”, “will” and “must” are mandatory; the word “may” is permissive.
- (5) The word “lot” includes the word “parcel.”
- (6) The words “Town” or “municipality” mean the Town of Albion, Maine.

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.

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 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.

Antenna. Means a system of poles, panels, rods, reflecting disc or similar devices used for the transmission or reception of electromagnetic frequency signals.

Antenna Height. Means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said point is an antenna. Measurement of tower height shall include antenna, basepad, and other appurtenances, and shall be measured from the finished grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grade shall be used in calculating the antenna height.

Backlot - any lot or parcel of land that does not have frontage on a public or private road or lacks the minimum frontage as required by this Ordinance.

Best Management Practice (BMP) - a method or practice which, when installed or used, is consistent with efficient, practical, technically and environmentally sound animal or crop production practices. For those practices that have an impact on water quality, BMP's are those practices best suited for preventing, reducing or correcting surface and groundwater contamination.

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

Building - Any structure built for the enclosure of persons, animals, or property, which is erected on a permanent foundation or is a manufactured housing unit.

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.

Clear Cutting - timber (tree) harvesting on a forested site which over a 10-year period results in an average residual basal area of trees over 6 inches in diameter of less than 30 square feet per acre, unless one or both of the following conditions exist:

- (1) If, after harvesting, the average residual basal area of trees over 1 inch in diameter measured at 4.5 feet above the ground is 30 square feet per acre or more, a clearcut does not occur until the average residual basal area of trees 6 inches or larger measured at 4.5 feet above the ground is less than 10 square feet per acre; or
- (2) After harvesting, the site has a well-distributed stand of trees at least 5 feet in height that meets the regeneration standards applicable under Title 12 MRSA, Chapter 805, Section 8869, Subsection 1.

Colocation. Means the use of a wireless telecommunication facility by more than one provider.

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.

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

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

Density - the number of dwelling units per area of land.

Development – The construction, reconstruction, conversion, alteration, or enlargement of any structure, or the establishment of a new non-residential use of the land. The term includes grading and filling of land preparatory to actual construction.

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

Direct watershed - that portion of the watershed that does not first drain through an upstream lake.

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

Driveway - a vehicular access way serving a land use activity.

Driveway (shoreland zone only) - a vehicular accessway less than five hundred (500) feet in length serving two lots or less.

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.

Duplex - two-family dwelling.

Emergency services - operations conducted for the public health and safety, such as fire protection, law enforcement, ambulance service, 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 months to a use's operating season; or an increase in the amount of floor area or ground area devoted to a particular use.

Expansion, Wireless Telecommunication Facility. Means the increase in height of an existing tower, or the addition of towers or structures to an existing facility.

FAA. Means the Federal Aviation Administration or its lawful successor.

Family - one or more persons occupying a premises and living as a single housekeeping unit.

FCC. Means the Federal Communication Commission or its lawful successor.

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, with 5' vertical distance or more of headroom, 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 or taller.

Foundation - the supporting substructure of a building or other structure including but not limited to basements, slabs, sills, posts or frostwalls.

Freshwater wetland - freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

- (1) of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
- (2) inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Frontage, road - the linear distance between the intersections of the side lot lines with the road right-of-way, as measured along the edge of the right-of-way.

Frontage, shore - the horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high-water elevation.

Gravel pit - Mineral extraction operation in which the excavation of sand or gravel takes place.

Height - the vertical distance between the mean original grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances which have no floor area.

Height, Wireless Telecommunication Facility. Means the distance measured from the ground to the highest point on the tower or other structure even if the highest point is an antenna.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is (a) clearly incidental to and compatible with the residential use of

the property and surrounding residential uses; and (b) which employs no more than two (2) persons other than family members residing in the home.

Impervious Surface - The area covered by buildings and associated structures, areas which have been or will be covered by a low permeability material, such as asphalt or concrete, and areas such as gravel roads and unpaved parking areas which have been or will be compacted through design or use to reduce their permeability. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and other surfaces which similarly impede the natural infiltration of stormwater.

Land use permit - document issued by Code Enforcement Officer or Planning Board authorizing a particular land use by an applicant.

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 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, not including land below the normal high-water line of a water body and areas devoted to rights-of-way.

Lot width - the distance between the side boundaries of the lot measured at the front setback 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, including the plumbing, heating, air conditioning and electrical systems contained therein and as otherwise defined in Title 30-A MRSA, Section 4358(1).

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.

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 three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.

Non-conforming lot - a 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.

Non-residential structure - any building that has a principal use other than as a dwelling or as an accessory to a dwelling.

Parcel - same as lot.

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.

Places of public assembly - a building which is owned and used as a meeting place for private or semiprivate social organizations and clubs such as grange halls, fraternal organizations and religious institutions, in which the principal use is exclusively for members. Rental of the facilities to outside groups is clearly incidental to the principal use and shall not significantly increase the intensity of the use of the site, especially in regard to parking and traffic.

Principal structure - a building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same premises.

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

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

Recent flood plain soils - the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

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: (a) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or

(b) 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. The term shall include mobile homes, but not recreational vehicles.

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

Riprap - rocks, irregularly shaped, and at least six (6) inches in diameter, used for erosion control and soil stabilization, typically used on ground slopes of two (2) units horizontal to one (1) unit vertical or less.

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

Road or roadway - 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.

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

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 horizontal distance from the edge of the road right-of-way or property boundary to the nearest part of a building, including porches, steps and railings.

Site Plan - A scaled drawing depicting locational details of a proposed commercial or non-residential development.

Slash - bark, branches, tops, chunks, cull logs, uprooted stumps and broken or uprooted trees and shrubs left on the ground as a result of a timber (tree) harvesting operation.

Single-Family Dwelling - any structure containing only one (1) dwelling unit.

Stream - a free-flowing body of water from the outlet of Lovejoy Pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland area.

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, signs, and utility poles. The term includes temporary structures located on a prepared site. Temporary structures erected for a period of less than ten (10) days are exempt.

Subdivision - as defined in Title 30-A MRSA, Section 4401.

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 - 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 Title 38 MRSA, Section 414, any surface wastewater disposal system licensed under Title 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 Title 38 MRSA, Chapter 13, Subchapter 1.

Timber or tree harvesting - the cutting and removing of trees from their growing site, and the attendant operation of mobile and portable chipping mills and of cutting and skidding machinery, including the creation and use of skid trails, skid roads and winter haul roads. Timber or tree harvesting does not include the clearing of land for allowed uses.

Timber harvest plan - a site-specific document outlining proposed activities to ensure compliance with performance standards and regeneration requirements prepared by the landowner or his/her agent.

Two-family dwelling (duplex) - a building containing two (2) dwelling units.

Undue hardship - as used in this Ordinance, the words “undue hardship” shall mean all of the following:

- (1) That the land in question cannot yield a reasonable return unless a variance is granted; and
 - (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; and
 - (3) That the granting of a variance will not alter the essential character of the locality; and
 - (4) That the hardship is not the result of action taken by the applicant or a prior owner.
- A variance is not justified unless all elements are present in the case.

Upland edge - the boundary between upland and wetland.

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, a literal enforcement of the Ordinance would result in undue hardship. Variances permissible under this Ordinance are limited to height of buildings, structures, lot size, yard and open

space size, frontage, and setbacks. No variance can be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent districts.

Vegetation - all live trees, shrubs, ground cover, and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 1/2' above ground level.

Water body - Lovejoy Pond, a river, or a stream.

Wetland – an area which is inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soils and which is not otherwise defined as a river, stream, or pond.

Wireless Telecommunication Facility. Means any structure, tower or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communication services (PCS) or pager services. “Wireless telecommunications facility” will not include any of the following:

- Amateur ham radio stations licensed by the FCC
- Parabolic antennas less than 7 feet in diameter, that are an accessory use of the property, commonly referred to as a satellite dish.
- Temporary wireless telecommunication facility, in operation for no longer than 180 days.
- An antenna that is an accessory to a residential dwelling unit.
- Antennas used for communication of municipal services and public safety.

TOWN OF ALBION SHORELAND ZONING ORDINANCE

Date of Enactment: June 13, 2017

Attested Signature: Amanda Dow
(Town Clerk)

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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 commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; 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,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland,

and all land areas within 75 feet, horizontal distance, of the normal high-water line of a 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 of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on _____ June 13, 2017_____, 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.

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) 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.** All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 15(B)(1). 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) Expansion of any portion of a structure within 25 feet 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. 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.

- (b) Notwithstanding paragraph (a), above, if a legally existing nonconforming principal structure is entirely located less than 25 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, that structure may be expanded as follows, as long as all other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1).
- (i) The maximum total footprint for the principal structure may not be expanded to a size greater than 800 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of the principal structure may not be made greater than 15 feet or the height of the existing structure, whichever is greater.
- (c) All other legally existing nonconforming 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 other applicable municipal land use standards are met and the expansion is not prohibited by Section 12(C)(1) or Section 12(C)(1)(a), above.
- (i) For structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 20 feet or the height of the existing structure, whichever is greater.
- (ii) For structures located less than 100 feet from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed on January 1, 1989, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater. Any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

(iii) In addition to the limitations in subparagraphs (i) and (ii), for structures that are legally nonconforming due to their location within the Resource Protection District when located at less than 250 feet from the normal high-water line of a water body or the upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,500 square feet or 30% larger than the footprint that existed at the time the Resource Protection District was established on the lot, whichever is greater. The maximum height of any structure may not be made greater than 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland must meet the footprint and height limits in Section 12(C)(1)(b)(i) and Section 12(C)(1)(c)(i), above.

- (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) **Foundations.** 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)(3) Relocation, below.
- (3) **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 accordance with Section 15(S). 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.

- (4) **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 footprint of the reconstructed or replaced structure at its new location. If the total footprint 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)(3) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or

less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(3) above, the physical condition and type of foundation present, if any.

- (5) **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 commercial fishing and maritime activities, and other 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) 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, including water dependent uses in the CFMA district, 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)(5) 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.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on July 1, 1992 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

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) 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. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (2) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
- (3) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
- (4) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.

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.

C. Limited Commercial District. The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District. 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.

D. 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 or coastal 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.

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 LR - Limited Residential

LC - Limited Commercial SP - Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE

<u><i>LAND USES</i></u>	<u><i>DISTRICT</i></u>			
	<u><i>SP</i></u>	<u><i>RP</i></u>	<u><i>LR</i></u>	<u><i>LC</i></u>
1. Non-intensive recreational uses not requiring structures such as hunting, fishing and hiking	yes	yes	yes	yes
2. Motorized vehicular traffic on existing roads and trails	yes	yes	yes	yes
3. Clearing or removal of vegetation for activities other than timber harvesting	CEO	CEO ¹	yes	yes
4. Fire prevention activities	yes	yes	yes	yes
5. Wildlife management practices	yes	yes	yes	yes
6. Soil and water conservation practices	yes	yes	yes	yes
7. Mineral exploration	no	yes ²	yes ²	yes ²
8. Mineral extraction including sand and gravel extraction	no	PB ³	PB	PB
9. Surveying and resource analysis	yes	yes	yes	yes
10. Emergency operations	yes	yes	yes	yes
11. Agriculture	yes	PB	yes	yes
12. Aquaculture	PB	PB	PB	yes
13. Principal structures and uses				
A. One and two family residential, including driveways	PB ⁴	PB ⁹	PB	PB
B. Multi-unit residential	no	no	PB	PB
C. Commercial	no	no ¹⁰	no ¹⁰	PB
D. Industrial	no	no	no	no
E. Governmental and institutional	no	no	PB	PB
F. Small non-residential facilities for educational, scientific, or nature interpretation purposes	PB ⁴	PB	PB	PB
14. Structures accessory to allowed uses	PB ⁴	PB	PB	PB
15. Piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland				
a. Temporary	CEO ¹¹	CEO ¹¹	CEO ¹¹	CEO ¹¹
b. Permanent	PB	PB	PB	PB
16. Conversions of seasonal residences to year-round residences	LPI	LPI	LPI	LPI
17. Home occupations	PB	PB	PB	CEO
18. Private sewage disposal systems for allowed uses	LPI	LPI	LPI	LPI
19. Essential services	PB ⁶	PB ⁶	PB	PB
A. Roadside distribution lines (34.5kV and lower)	CEO ⁶	CEO ⁶	yes ¹²	yes ¹²
B. Non-roadside or cross-country distribution lines involving ten poles or less in the shoreland zone	PB ⁶	PB ⁶	CEO	CEO
C. Non-roadside or cross-country distribution lines involving eleven or more poles in the shoreland zone	PB ⁶	PB ⁶	PB	PB
D. Other essential services	PB ⁶	PB ⁶	PB	PB
20. Service drops, as defined, to allowed uses	yes	yes	yes	yes
21. Public and private recreational areas involving minimal structural development	PB	PB	PB	CEO
22. Individual, private campsites	CEO	CEO	CEO	CEO
23. Campgrounds	no	no ⁷	PB	PB
24. Road construction	PB	no ⁸	PB	PB
25. Parking facilities	no	no ⁷	PB	PB
26. Marinas	PB	no	PB	PB
27. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes
28. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO
29. Signs	yes	yes	yes	yes
30. Uses similar to allowed uses	CEO	CEO	CEO	CEO
31. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO
32. Uses similar to uses requiring a PB permit	PB	PB	PB	PB

¹In RP not allowed within 75 feet horizontal distance, of the normal high-water line of great ponds, except to remove safety hazards.

²Requires permit from the Code Enforcement Officer if more than 100 square feet of surface area, in total, is disturbed.

³In RP not allowed in areas so designated because of wildlife value.

⁴Provided that a variance from the setback requirement is obtained from the Board of Appeals.

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only

⁶See further restrictions in Section 15(L)(2).

⁷Except when area is zoned for resource protection due to floodplain criteria in which case a permit is required from the PB.

⁸Except as provided in Section 15(H)(4).

⁹Single 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.

¹⁰Except for commercial uses otherwise listed in this Table, such as marinas and campgrounds, that are allowed in the respective district.

¹¹Excluding bridges and other crossings not involving earthwork, in which case no permit is required.

¹²Permit not required; but must file a written "notice of intent to construct" with CEO.

NOTE: 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 or coastal 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.*
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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.)

TABLE: Dimensional Standards for Shoreland Zones					
<i>Use of Structure</i>	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)	Minimum Side Setback (ft.)	Minimum Rear Setback (ft.)	Minimum Road Setback (ft.)
<i>Residential per dwelling unit</i>	40,000	200	5	5	10
<i>Governmental, Institutional, Commercial, or Industrial per principal structure</i>	60,000	300	5	5	10
<i>Public and Private Recreational Facilities</i>	40,000	200	5	5	10

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) 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.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

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 classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

NOTE: The Natural Resources Protection Act, 38 M.S.R.A. sections 480-A through 480-HH, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat".

Permitting under the Natural Resources Protection Act for activities adjacent to significant wildlife habitat areas may require greater setbacks. Contact your local Department of Environmental Protection office to see if additional permitting is required.

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) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix A), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- (c) 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.

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- (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. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) Non-vegetated surfaces shall not exceed a total of twenty (20) percent of the portion of the lot located within the shoreland zone. This limitation does not apply to public boat launching facilities regardless of the district in which the facility is located.

For the purposes of calculating lot coverage, non-vegetated surfaces include, but are not limited to the following: structures, driveways, parking areas, and other areas from which vegetation has been removed. Naturally occurring ledge and rock outcroppings are not counted as nonvegetated surfaces when calculating lot coverage for lots of record on March 24, 1990 and in continuous existence since that date.

- (5) 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.

C. 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, and Shoreline Stabilization

- (1) No more than one pier, dock, wharf or similar structure extending or located below the normal high-water line of a water body or within a wetland is allowed on a single lot; except that when a single lot contains at least twice the minimum shore frontage as specified in Section 15(A), a second structure may be allowed and may remain as long as the lot is not further divided.
- (2) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (3) The location shall not interfere with existing developed or natural beach areas.
- (4) The facility shall be located so as to minimize adverse effects on fisheries.
- (5) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (6) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.

NOTE: *A structure constructed on a float or floats is prohibited unless it is designed to function as, and is registered with the Maine Department of Inland Fisheries and Wildlife as a watercraft.*

- (7) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the *Natural Resources Protection Act*.
- (8) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (9) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

(10) Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board.

(a) When necessary, the removal of trees and other vegetation to allow for construction equipment access to the stabilization site via land must be limited to no more than 12 feet in width. When the stabilization project is complete the construction equipment accessway must be restored.

(b) Revegetation must occur in accordance with Section 15(S).

NOTE: New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.

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 classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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) When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.

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- (3) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
 - (4) 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.
 - (5) 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.
 - (6) 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.
 - (7) 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 classified GPA, and rivers and streams which flow to great ponds classified GPA:

- (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

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

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

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 permanent roads are not allowed within the shoreland zone along Significant River Segments except:
 - (a) To provide access to structures or facilities within the zone; or
 - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) 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.
- (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(T).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) 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.

(8) 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.

(9) 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.

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- (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.

NOTE: *The Stormwater Management Law (38 M.R.S.A. section 420-D) requires a full permit to be obtained from the DEP prior to construction of a project consisting of 20,000 square feet or more of impervious area or 5 acres or more of a developed area in an urban impaired stream watershed or most-at-risk lake watershed, or a project with 1 acre or more of developed area in any other stream, coastal or wetland watershed. A permit-by-rule is necessary for a project with one acre or more of disturbed area but less than 1 acre impervious area (20,000 square feet for most-at-risk lakes and urban impaired streams) and less than 5 acres of developed area. Furthermore, a Maine Construction General Permit is required if the construction will result in one acre or more of disturbed area.*

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.

NOTE: The Maine Subsurface Wastewater Disposal Rules require new systems, excluding fill extensions, to be constructed no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distance for a new subsurface disposal system may not be reduced by variance.

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 District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (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)(4) 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 classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within

fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.

- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.
- (4) 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.

NOTE: *The State of Maine Solid Waste Laws, 38 M.R.S.A., section 1301 and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.*

- (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.
- (5) 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 former 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 classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. 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 classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; 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 classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan that has been filed with the planning board.

O. 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 hazard trees as described in section P.

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, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, or within a strip extending 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 single footpath not to exceed six (6) feet in width as measured

between tree trunks and/or shrub stems is allowed for accessing the shoreline 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 classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 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.

NOTE: *As an example, adjacent to a great pond, if a 25-foot x 50-foot plot contains four (4) trees between 2 and 4 inches in diameter, two trees between 4 and 8 inches in diameter, three trees between 8 and 12 inches in diameter, and two trees over 12 inches in diameter, the rating score is:*

$$(4 \times 1) + (2 \times 2) + (3 \times 4) + (2 \times 8) = 36 \text{ points}$$

Thus, the 25-foot by 50-foot plot contains trees worth 36 points. Trees totaling 12 points (36 - 24 = 12) may be removed from the plot provided that no cleared openings are created.

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;

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- (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, dead or hazard trees results in the creation of cleared openings, these openings shall be replanted with native tree species in accordance with Section Q, below, unless existing new tree growth is present.
- (f) In order to maintain the vegetation in the shoreline buffer, clearing or removal of vegetation for allowed activities, including associated construction and related equipment operation, within or outside the shoreline buffer, must comply with the requirements of Section 15.P(2).
- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 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 applies to the portion of a lot within the shoreland zone, including the buffer area.

- (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).

P. Hazard Trees, Storm-Damaged Trees, and Dead Tree Removal

- (1) Hazard trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
 - (a) Within the shoreline buffer, if the removal of a hazard tree results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least four (4) feet in height, and be no less than two (2) inches in diameter. Stumps may not be removed.
 - (b) Outside of the shoreline buffer, when the removal of hazard trees exceeds forty (40) percent of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above ground level in any ten (10) year period, and/or results in cleared openings exceeding twenty-five (25) percent of the lot area within the shoreland zone, or ten thousand (10,000) square feet, whichever is greater, replacement with native tree species is required, unless there is new tree growth already present. New tree growth must be as near as practicable to where the hazard tree was removed and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level. If new growth is not present, then replacement trees shall consist of native species and be at least two (2) inches in diameter, measured at four and one half (4.5) feet above the ground level.
 - (c) The removal of standing dead trees, resulting from natural causes, is permissible without the need for replanting or a permit, as long as the removal does not result in the creation of new lawn areas, or other permanently

cleared areas, and stumps are not removed. For the purposes of this provision dead trees are those trees that contain no foliage during the growing season.

- (d) The Code Enforcement Officer may require the property owner to submit an evaluation from a licensed forester or arborist before any hazard tree can be removed within the shoreland zone.
 - (e) The Code Enforcement Officer may require more than a one-for-one replacement for hazard trees removed that exceed eight (8) inches in diameter measured at four and one half (4.5) feet above the ground level.
- (2) Storm-damaged trees in the shoreland zone may be removed without a permit after consultation with the Code Enforcement Officer if the following requirements are met:
- (a) Within the shoreline buffer, when the removal of storm-damaged trees results in a cleared opening in the tree canopy greater than two hundred and fifty (250) square feet, replanting is not required, but the area shall be required to naturally revegetate, and the following requirements must be met:
 - (i) The area from which a storm-damaged tree is removed does not result in new lawn areas, or other permanently cleared areas;
 - (ii) Stumps from the storm-damaged trees may not be removed;
 - (iii) Limbs damaged from a storm event may be pruned even if they extend beyond the bottom one-third (1/3) of the tree; and
 - (iv) If after one growing season, no natural regeneration or regrowth is present, replanting of native tree seedlings or saplings is required at a density of one seedling per every eighty (80) square feet of lost canopy.
 - (b) Outside of the shoreline buffer, if the removal of storm damaged trees exceeds 40% of the volume of trees four (4) inches or more in diameter, measured at four and one half (4.5) feet above the ground level in any ten (10) year period, or results, in the aggregate, in cleared openings exceeding 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, and no natural regeneration occurs within one growing season, then native tree seedlings or saplings shall be replanted on a one-for-one basis.

Q. Exemptions to Clearing and Vegetation Removal Requirements

The following activities are exempt from the clearing and vegetation removal standards set forth in Section 15(P), provided that all other applicable requirements of this chapter are complied with, and the removal of vegetation is limited to that which is necessary:

- (1) The removal of vegetation that occurs at least once every two (2) years for the maintenance of legally existing areas that do not comply with the vegetation standards in this chapter, such as but not limited to cleared openings in the canopy or fields. Such areas shall not be enlarged, except as allowed by this section. If any of these areas, due to lack of removal of vegetation every two (2) years, reverts back to primarily woody vegetation, the requirements of Section 15(P) apply;
- (2) The removal of vegetation from the location of allowed structures or allowed uses, when the shoreline setback requirements of section 15(B) are not applicable;
- (3) The removal of vegetation from the location of public swimming areas associated with an allowed public recreational facility;
- (4) The removal of vegetation associated with allowed agricultural uses, provided best management practices are utilized, and provided all requirements of section 15(N) are complied with;
- (5) The removal of vegetation associated with brownfields or voluntary response action program (VRAP) projects provided that the removal of vegetation is necessary for remediation activities to clean-up contamination on a site in a general development district, commercial fisheries and maritime activities district or other equivalent zoning district approved by the Commissioner that is part of a state or federal brownfields program or a voluntary response action program pursuant 38 M.R.S.A section 343-E, and that is located along:
 - (a) A coastal wetland; or
 - (b) A river that does not flow to a great pond classified as GPA pursuant to 38 M.R.S.A section 465-A.
- (6) The removal of non-native invasive vegetation species, provided the following minimum requirements are met:
 - (a) If removal of vegetation occurs via wheeled or tracked motorized equipment, the wheeled or tracked motorized equipment is operated and stored at least twenty-five (25) feet, horizontal distance, from the shoreline, except that wheeled or tracked equipment may be operated or stored on existing structural surfaces, such as pavement or gravel;

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- (b) Removal of vegetation within twenty-five (25) feet, horizontal distance, from the shoreline occurs via hand tools; and
 - (c) If applicable clearing and vegetation removal standards are exceeded due to the removal of non-native invasive species vegetation, the area shall be revegetated with native species to achieve compliance.

NOTE: An updated list of non-native invasive vegetation is maintained by the Department of Agriculture, Conservation and Forestry's Natural Areas Program: http://www.maine.gov/dacf/mnap/features/invasive_plants/invasives.htm

- (7) The removal of vegetation associated with emergency response activities conducted by the Department, the U.S. Environmental Protection Agency, the U.S. Coast Guard, and their agents.

R. Revegetation Requirements

When revegetation is required in response to violations of the vegetation standards set forth in above to address the removal of non- native invasive species of vegetation, or as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.

- (1) The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- (2) Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed:
- (3) If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.
- (4) Revegetation activities must meet the following requirements for trees and saplings:

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- (a) All trees and saplings removed must be replaced with native noninvasive species;
 - (b) Replacement vegetation must at a minimum consist of saplings;
 - (c) If more than three (3) trees or saplings are planted, then at least three (3) different species shall be used;
 - (d) No one species shall make up 50% or more of the number of trees and saplings planted;
 - (e) If revegetation is required for a shoreline stabilization project, and it is not possible to plant trees and saplings in the same area where trees or saplings were removed, then trees or sapling must be planted in a location that effectively reestablishes the screening between the shoreline and structures; and
 - (f) A survival rate of at least eighty (80) percent of planted trees or saplings is required for a minimum five (5) years period.
- (5) Revegetation activities must meet the following requirements for woody vegetation and other vegetation under three (3) feet in height:
- (a) All woody vegetation and vegetation under three (3) feet in height must be replaced with native noninvasive species of woody vegetation and vegetation under three (3) feet in height as applicable;
 - (b) Woody vegetation and vegetation under three (3) feet in height shall be planted in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
 - (c) If more than three (3) woody vegetation plants are to be planted, then at least three (3) different species shall be planted;
 - (d) No one species shall make up 50% or more of the number of planted woody vegetation plants; and
 - (e) Survival of planted woody vegetation and vegetation under three feet in height must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years
- (6) Revegetation activities must meet the following requirements for ground vegetation and ground cover:
- (a) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;

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- (b) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four (4) inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
 - (c) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for minimum of five (5) years.

S. 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 rip-rap.
- (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.

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- (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.
- (6) Definition. For purposes of this section, “excavation contractor” means an individual or firm engaged in a business that causes the disturbance of soil, including grading, filling and removal, or in a business in which disturbance of soil results from an activity that the individual or firm is retained to perform.

Certification required. An excavation contractor conducting excavation activity in a shoreland area shall ensure that a person certified in erosion control practices by the department:

- A. Is responsible for management of erosion and sediment control practices at the site; and
- B. Is present at the site each day earth-moving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.

The requirements of this subsection apply until erosion control measures that will permanently stay in place have been installed at the site or, if the site is to be revegetated, erosion control measures that will stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion have been installed.

Application. This section does not apply to:

- A. Activities resulting in less than one cubic yard of earth material being added or displaced;
- B. A person or firm engaged in agriculture or timber harvesting if best management practices for erosion and sedimentation control are used; and
- C. Municipal, state and federal employees engaged in projects associated with that employment.

T. 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.

U. 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.

V. 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 notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

After the submission of a complete application to the Planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- (1) Will maintain safe and healthful conditions;

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- (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 and coastal waters;
 - (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
 - (7) Will not adversely affect existing commercial fishing or maritime activities.
 - (8) Will avoid problems associated with floodplain development and use; and
 - (9) 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 flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including

basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

If the floodway is not shown on the Federal Emergency Management Agency Maps, it is deemed to be 1/2 the width of the 100-year flood-plain.

- (4) The total footprint, 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 flood-plain, and its proximity to moderate-value and high-value wetlands.
- (6) A municipality by ordinance may authorize a code enforcement officer to issue a permit to an owner of a dwelling for the purpose of making a dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. If the permit requires a variance, the permit is deemed to include that variance solely for the installation of equipment or the construction of structures necessary for access to or egress from the dwelling for the person with a disability. The code enforcement officer may impose conditions on the permit, including limiting the permit to the duration of the disability or to the time that the person with a disability lives in the dwelling.

For the purposes of this section, the term “structures necessary for access to or egress from the dwelling” includes ramps and associated railings, walls or roof systems necessary for the safety or effectiveness of the ramps.

For purposes of this section, “disability” has the same meaning as a physical or mental disability under Title 5, section 4553-A.

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;

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- 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, or the codes enforcement officer if authorized in accordance with 30-A MRSA §4353-A, 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. Any permit issued pursuant to this subsection is subject to Sections 16(H)(2)(f) and 16(H)(4)(b)(iv) below.)
- (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 abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

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 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.

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- (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.
- (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 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 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.

Bureau of Forestry – State of Maine Department of Agriculture, Conservation, and Forestry, Bureau of Forestry.

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 footprint 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 footprint of a structure 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.

Footprint - the entire area of ground covered by the structure(s) on a lot, including but not limited to cantilevered or similar overhanging extensions, as well as unenclosed structures, such as patios and decks.

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:

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- (1) Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and
 - (2) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and that can not be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish-related storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, shoreline structures necessary for erosion control purposes, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water that can not reasonably be located or operated at an inland site, and uses that primarily provide general public access to coastal or inland waters. Recreational boat storage buildings are not considered to be a functionally water-dependent use.

Great pond - any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner,

Great pond classified GPA - any great pond classified GPA, pursuant to 38 M.R.S.A. Article 4-A Section 465-A. This classification includes some, but not all impoundments of rivers that are defined as great ponds.

Ground cover – small plants, fallen leaves, needles and twigs, and the partially decayed organic matter of the forest floor.

Hazard tree - a tree with a structural defect, combination of defects, or disease resulting in a structural defect that under the normal range of environmental conditions at the site exhibits a high probability of failure and loss of a major structural component of the tree in a manner that will strike a target. A normal range of environmental conditions does not include meteorological anomalies, such as, but not limited to: hurricanes; hurricane-force winds; tornados; microbursts; or significant ice storm events. Hazard trees also include those trees that pose a serious and imminent risk to bank stability. A target is the area where personal injury or property damage could occur if the tree or a portion of the

tree falls. Targets include roads, driveways, parking areas, structures, campsites, and any other developed area where people frequently gather and linger.

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, lot coverage or footprint, 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.

Non-native invasive species of vegetation - species of vegetation listed by the Maine Department of Agriculture, Conservation and Forestry as being invasive in Maine ecosystems and not native to Maine ecosystems.

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. 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.

Outlet stream - any perennial or intermittent stream, as shown on the most recent highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map, that flows from a freshwater wetland.

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 beyond the normal high-water line or within a wetland.

Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.

Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Principal structure - a structure other than one which is used for purposes wholly incidental or accessory to the use of another structure or use on the same lot.

Principal use - a use other than one which is wholly incidental or accessory to another use on the same lot.

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
Suncook

Rumney
Sunday

Saco
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.

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.

Salt marsh - Areas of coastal wetland (most often along coastal bays) that support salt tolerant species, and where at average high tide during the growing season, the soil is irregularly inundated by tidal waters. The predominant species is saltmarsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water.

Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Sapling - a tree species that is less than two (2) inches in diameter at four and one half (4.5) feet above ground level.

Seedling - a young tree species that is less than four and one half (4.5) feet in height above ground level.

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 coastal wetland, including all areas affected by tidal action; within 250 feet 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 or coastal wetland.

Significant River Segments - See Appendix A or 38 M.R.S.A. section 437.

Storm-damaged tree - a tree that has been uprooted, blown down, is lying on the ground, or that remains standing and is damaged beyond the point of recovery as the result of a storm event.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent , highest resolution version of the national hydrography dataset available from the United States Geological Survey on the website of the United States Geological Survey or the national map to the point where the stream becomes a river or where the stream meets the shoreland zone of another water body or wetland. When a stream meets the shoreland zone of a water body or wetland and a channel forms downstream of the water body or wetland as an outlet, that channel is also a stream.

Structure – anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8.

Substantial start - completion of thirty (30) percent of a permitted structure or use measured as a percentage of estimated total cost.

Subsurface sewage disposal system – any system designed to dispose of waste or waste water on or beneath the surface of the earth; includes, but is not limited to: septic tanks; disposal fields; grandfathered cesspools; holding tanks; pretreatment filter, piping, or any other fixture, mechanism, or apparatus used for those purposes; does not include any discharge system licensed under 38 M.R.S.A. section 414, any surface waste water disposal system, or any municipal or quasi-municipal sewer or waste water treatment system..

Sustained slope - a change in elevation where the referenced percent grade is substantially maintained or exceeded throughout the measured area.

Tidal waters – all waters affected by tidal action during the highest annual tide.

Tree - a woody perennial plant with a well-defined trunk(s) at least two (2) inches in diameter at four and one half (4.5) feet above the ground, with a more or less definite crown, and reaching a height of at least ten (10) feet at maturity.

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 coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the highest annual tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters (approximately twenty (20) feet) 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.

Velocity zone - an area of special flood hazard extending from offshore to the inland limit of the primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls 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 or coastal wetland.

Woody Vegetation - live trees or woody, non-herbaceous shrubs.

Ordinance to Establish Town of Albion Board of Appeals

1. Establishment

A Board of Appeals is hereby created in accordance with the provisions of Title 30-A, MRSA, Section 2691.

2. General Provisions

1. Business of the Board shall be conducted in accord with Maine statutes, Town ordinances and Robert 's Rule of Order.

2. 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.

3. It shall be the responsibility of the Board to become familiar with the community goals and policies as expressed in Albion 's Comprehensive Plan, and grant the minimum relief necessary to preserve the intent of the Plan and see that substantial justice is done.

3. Appointment and Composition

1. The Municipal Officers shall appoint members of the Board of Appeals, whose term shall be dated as of the date of the annual meeting required under section four (4) below.

2. The Board shall consist of five (5) members serving staggered terms of three (3) years.

3. Due to potential conflicts of interest, persons holding the following positions at the same time are ineligible to serve on the Board: municipal officers or spouses thereof, Planning Board members or associate members, Code Enforcement Officer and Plumbing Inspector.

4. Within sixty (60) days of the annual appointment of members, the Board shall hold an annual organizational meeting to administer the oath of office to new members, review its responsibilities under this ordinance and provide copies of existing land use ordinances to all members. This meeting shall be called by the existing chairperson of the Board, or, if that position is vacant, by the municipal officers. The Town Clerk shall attend to administer the oath of office.

5. At the annual meeting, the Board shall elect a chairperson, acting chairperson and secretary from its membership for a term of one (1) year. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record.

6. Any member of the Board may be removed from the Board for cause, by the municipal officers before the expiration of his, or 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 or 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.

7. When there is a permanent vacancy, the secretary shall immediately notify the Town Clerk. The municipal officers shall within sixty (60) days appoint a person to serve for the unexpired term.

4. Meetings

1. Other than the annual organizational meetings, the Board shall meet as necessary to perform its duties.

2. Meetings may be called by the chairperson. At least seven (7) days written notice of the time, place and business of the meeting shall be given each member of the Board, the Selectmen, the Planning Board, the Code Enforcement Officer and any parties of interest. When a public hearing on an appeal is scheduled to be heard, public notice and notice to abutters is also required (see section 6.4 below).

3. The chairperson shall call a special meeting within ten (10) days of receipt of a written request from any three (3) members of the Board; the request shall specify the matters to be considered at any such special meeting.

4. All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. 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.

5. Voting

1. A quorum shall consist of four (4) members of the Board.

2. 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.

3. All matters shall be decided by a roll call vote. Decisions on any matter before the Board shall require the affirmative vote of a majority of the entire membership of the Board unless otherwise specified herein.

4. A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

5. If a member has a conflict of interest, said member shall not be counted by the Board in establishing the quorum for such matter.

6. No member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon or, alternatively, has become thoroughly familiarized with such matter by reading the record.

6. Powers and Duties

1. Administrative Appeals. To 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 enforcement or administration of this Ordinance.

2. Variance Appeals. To authorize variances upon appeal, within the limitations set forth in this Ordinance.

a) Variances may be granted only from dimensional requirements including but not limited to frontage, lot area, 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:

(1) The proposed structure, or use, would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and

(2) The strict application of the terms of this Ordinance would result in undue hardship.

The term undue hardship shall mean all of the following:

aa) That the land in question cannot yield a reasonable return unless a variance is granted;

bb) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;

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

dd) That the hardship is not the result of action taken by the applicant or a prior owner.

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

e) In areas subject to the Mandatory Shoreland Zoning Act, a copy of all variances granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.

f) If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within thirty (30) days of final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this provision.

7. Appeal Procedure

1. Time Limit. 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. Such appeal shall be taken within thirty (30) days of the date of the decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

2. Written Notice. Such appeal 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 it 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 requested.

3. Record of Case. 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.

4. Public Hearing. The Board of Appeals shall hold a public hearing on the appeal within thirty (30) days of its receipt of an appeal request. The Board shall send written notice of this hearing to the Planning Board, Code Enforcement Officer, Board of Selectmen, applicant, abutters to the property involved, and any other interested parties at least seven (7) days prior to the date of the hearing. A legal notice shall also be posted in a newspaper of general circulation at least seven (7) days prior to the hearing.

5. Decision by Board of Appeals

a) Burden of Proof. The person filing the appeal shall have the burden of proof.

b) Action on Appeal. Following the public hearing on an appeal the board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer or Planning Board. 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. When errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer or Planning Board for correction.

c) Time Frame. The Board shall decide all appeals within thirty (30) days after the close of the hearing, and shall issue a written decision on all appeals. Copies shall be provided to the

applicant, Planning Board, Selectmen, Code Enforcement Officer and other interested parties. In the case of a variance granted within the shoreland zone, a copy will also be proved to the Department of Environmental Protection within fourteen (14) days of the decision.

f) Findings. 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 therefor, and the appropriate order, relief or denial thereof.

6. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws within thirty (30) days from the date of any decision of the Board of Appeals.

7. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF ALBION, MAINE

ENACTED: _____
Date

EFFECTIVE: _____
Date

CERTIFIED BY: _____
Signature

CERTIFIED BY: _____
Print Name

Title

Affix Seal

Town of Albion
FLOODPLAIN MANAGEMENT ORDINANCE
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60.3 (c) Rev. 4/09
(prepared 12/27/2010 by SPO/jpp)

ARTICLE I - PURPOSE AND ESTABLISHMENT

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

The areas of special flood hazard, Zones A and AE for Town of Albion, Kennebec County, Maine, identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – Kennebec County" dated June 16, 2011 with accompanying "Flood Insurance Rate Map" dated June 16, 2011 with panels:

195, 203, 204, 210, 215, 220, 385, 405

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec 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 Planning Board. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Albion, Maine.

ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board 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 Zones AE, from data contained in the "Flood Insurance Study – Kennebec County, Maine" as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), 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, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
 - 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 - 3. a certified statement that bridges will meet the standards of Article VI.M.;
 - 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$100 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Planning Board 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 Planning Board 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 – Kennebec County, Maine," as described in Article I;

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

(3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

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

I. **Recreational Vehicles** - Recreational Vehicles located within:

1. Zones A and AE, shall either:

- a. be on the site for fewer than 180 consecutive days,
- b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
- c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

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

1. 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 Zones 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 Digital Flood Insurance Rate Map, Kennebec County 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 Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
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 and seaward of the mean high tide if the following requirements are met:

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

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 Albion 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 Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the ??? 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.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones AE and 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 and 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, 03/09, as amended) that:

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

Flood or Flooding - means:

- a. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 1. The overflow of inland or tidal waters.
 2. The unusual and rapid accumulation or runoff of surface waters from any source.

- b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph a.1. of this definition.

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 1. By an approved state program as determined by the Secretary of the Interior, or
 2. Directly by the Secretary of the Interior in states without approved programs.

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

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

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

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

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

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

facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- b. when not designated on the community's Digital 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).

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