

2005

Town of Brooks Maine Ordinances

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**Building Notification Ordinance
For the
Town of Brooks**

Section 1. Title and Purpose:

This ordinance shall be known as the "Building Notification Ordinance for the Town of Brooks, Maine". It is enacted by the inhabitants of the Town of Brooks to promote the fair assessment of real property taxes for property by requiring notification for any changes to dwellings and structures or for new dwellings and structures, as defined in this Ordinance.

Section 2. Authority:

2.1 This Ordinance is enacted pursuant to the authority given the Town in Title 30-A MRSA Section 3001 (Home Rule).

2.2 The effective date of this Ordinance shall be the date it is adopted at the Town Meeting of the Town of Brooks.

2.3 This Ordinance shall not impair or remove the necessity of compliance with any other rule, regulation, bylaw, permit or provision of law including but not limited to, shore land zoning, subdivision ordinances, entrance permits to State or State aid highways, Natural Resource Protection Act, Storm Water Drainage or State of Maine Plumbing regulations. These permits, if required, shall be obtained prior to filing a Notice of Intent to Build.

2.4 This Ordinance shall apply to all construction commenced after the effective date of the Ordinance which increases the foot print or adds 400 square feet of gross living space. This Ordinance also applies to any new structures or dwellings that are intended to be over 400 square feet. If a structure is started after the effective date of this Ordinance, which is intended to be less than 400 square feet, but is subsequently added on to, a Notification of Intent to build must be obtained prior to the structure reaching the 400 square foot threshold.

Section 3. The Administration:

3.1 The Code Enforcement Officer shall administer the provisions of the Ordinance.

3.2 The Code Enforcement Officer shall immediately report any violations of this Ordinance to the Board of Selectmen.

3.3 The Code Enforcement Officer shall accept completed Intention to Build Notifications and shall place submitted forms on file in the Town Office.

Section 4. Notification of Intention to Build:

*Voted and accepted at
Special Town Meeting
July 14, 2005*

4.1 Before construction that is regulated by this Ordinance is started, the owner shall complete an Intention to Build Notification. Forms may be obtained from the Town Office.

4.2 A completed Intention to Build Notification shall include:

- a. Sketch showing location and layout of proposed structure(s)
- b. A copy of all required permits as noted in Section 2.3 above,

4.3 The CEO, within 10 business days of receiving the application will respond to the applicant that the notification has been received and whether the notification is complete. The project may proceed on receipt of a complete notification.

4.4 The Intention to Build notification shall be valid for a period of two (2) years from date of issuance. Any project not commenced within the two-year period would require a new Intention to Build notification.

Section 5. Enforcement:

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

5.2 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 this Ordinance is being violated, he shall notify in writing the person responsible for such violation.

5.3 Any person who violates this Ordinance, after receiving notice of such violation, shall be guilty of a civil violation, and, on conviction, shall be subject to a fine of \$100.00 which shall be payable to the Town. Such persons shall also be liable for court costs and attorney fees incurred by the municipality.

Section 6. Validity and Amendments:

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

6.2 This Ordinance may be amended by majority vote of the Town at any Town Meeting.

Section 7. Appeals:

A decision of the Code Enforcement Officer may be taken within 30 days to the Board of Selectmen in accordance with Title 30, Section 4963.

Section 8. Definitions:

8.1 **Gross Living Space:** Space in a building used for habitation of the human kind.

- 8.2 **Structure:** A permanent building on a single parcel constructed, erected or placed with a fixed location on or in the ground or attached to something on or in the ground.
- 8.3 **Structural Change:** An alteration of a load carrying member or an alteration of the exterior.
- 8.4 **Dwelling:** A structure as defined above use primarily for human habitation.

Building Notification Form

Name of Notifier: _____

Address of Notifier: _____

Phone of Notifier: _____

Tax Map Lot Number of Building to be constructed with: _____
(If you do not know this number, check with the town office)

Some Land to be built upon must have the proper permits from the State of Maine. See Section 2.3 of the Building Notification Ordinance for a list of possibilities. If any questions, please call a Planning Board member and they can help. The numbers of members are available through the Town Office.

Please use the rest of the space to roughly sketch location and layout of your proposed project. Or you may attach a copy of a sketch.+

2004

**DOG
LICENSING**

MUNICIPAL POSTING

**TITLE 7 M.R.S.A.
CHAPTER 721 & 725**

**A COPY OF THIS BOOKLET MUST BE POSTED AT "THE USUAL PLACES FOR
POSTING NOTICES OF THE ANNUAL MUNICIPAL ELECTIONS."**

CHAPTER 721 DOG LICENSES

7 § 3921. License necessary

A dog may not be kept within the limits of the State, unless the dog has been licensed by its owner or keeper in accordance with the laws of this State.

Any law enforcement agency within the State, counties or municipalities owning dogs for law enforcement purposes shall be required to license the dogs in the municipality in which they are domiciled, but shall be exempt from any license or recording fee, provided that all other licensing requirements are fulfilled.

7 § 3921-A. Permanent identification of wolf hybrids

The commissioner shall adopt rules to establish methods of identifying wolf hybrids through tattooing, the placement of a microchip under the animal's skin or any other method determined by the commissioner as adequately providing a permanent means of identification of the body of the animal. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. A person may not own or keep a wolf hybrid unless the animal has identification in compliance with the rules adopted under this section.

7 § 3922. Issuance of license

1. License; January 1st. Each owner or keeper of a dog at the age of 6 months or more, on or before January 1st of each year, shall obtain a license:

- A. From the clerk of the municipality where the dog is kept;
- B. From the dog recorder in the unorganized territory where the dog is kept or, in the absence of a duly authorized dog recorder, from a dog recorder in the nearest municipality or unorganized territory in the same county where the dog is kept ;
- C. From a veterinary licensing agent in accordance with section 3923-F; or
- D. From the department using the Internet in accordance with section 3923-G.

2. License; after January 1st. The owner or keeper, within 10 days of the conditions of paragraph A or B being met, shall obtain a license, if between January 1st and October 15th of any year:

- A. A dog reaches the age of 6 months or more; or
- B. A person becomes the owner or keeper of a dog aged 6 months or more.

3. Proof of immunization. Except as provided in subsection 3-A, a municipal clerk may not issue a license for a dog until the applicant has filed with the clerk proof that the dog has been immunized against rabies in accordance with rules adopted by the Commissioner of Human Services, except that the requirement of immunization may be waived by the clerk under conditions set forth by the Commissioner of Human Services.

The commissioner shall adopt rules that allow the clerk and the commissioner to accept valid proof of immunization against rabies provided by another state.

3-A. Exception to immunization requirement for wolf hybrids. If a person applying for a license declares that the dog is a wolf hybrid, a municipal clerk may issue a license without proof that the dog has been immunized against rabies. In accordance with subsection 5, the license issued for the dog must state that the dog is a wolf hybrid.

3-B. Proof of permanent identification. A municipal clerk may not issue a license for a wolf hybrid until the applicant has filed with the clerk proof that the wolf hybrid has been permanently identified in accordance with section 3921-A.

4. Trained guide dogs. If a trained dog has not been previously registered or licensed by the municipal clerk to whom the application is being made, the clerk shall not register the dog nor issue to its owner or keeper a license and tag unless written evidence is provided that the dog is trained and educated and intended to perform guide service for the applicant.

5. Form of license. The license must state the breed, sex, color and markings of the dog, whether the animal is a dog or wolf hybrid and the name and address of the owner or keeper. If the person applying for a license declares that the dog is a wolf hybrid, the license must state that the dog is a wolf hybrid. The license must be issued in triplicate and the original must be given to the applicant and the remaining 2 copies must be retained by the municipal clerk or dog recorder.

6. Designation of wolf hybrid. An owner or keeper of a dog declared as a wolf hybrid may not change the license designation. A dog that has been declared a wolf hybrid must be treated as a wolf hybrid in accordance with Title 22, chapter 251, subchapter V.

7 § 3923-A. License and recording fees

Except as provided in subsection 3 and section 3923-C, a dog owner or keeper obtaining a license from a municipal clerk or dog recorder shall pay the license and recording fees established in this section.

1. Dogs or wolf hybrids capable of producing young. A dog owner or keeper shall pay a fee of \$10 to the municipal clerk for each dog 6 months of age or older and capable of producing young. A dog is considered capable of producing young unless certification under subsection 2 is provided.

The municipal clerk shall retain a \$1 recording fee and pay the remaining \$9 to the department for deposit in the Animal Welfare Fund.

2. Dogs or wolf hybrids incapable of producing young. A dog owner shall pay a fee of \$6 to the municipal clerk or to a veterinary licensing agent for each dog 6 months of age or older and incapable of producing young. A dog is considered incapable of producing young when the owner provides the following:

- A. A written certificate issued by a veterinarian stating that the veterinarian has neutered the dog;
- B. A written certificate issued by a veterinarian stating that the veterinarian has examined the dog and determined that the dog is incapable of producing young; or
- C. A previous license stating that the dog is incapable of producing young.

The municipal clerk shall retain a \$1 recording fee, deposit \$2 in the municipality's animal welfare account established in accordance with section 3945 and pay the remaining \$3 to the department for deposit in the Animal Welfare Fund.

2-A. Rabies tags. An owner shall ensure that a rabies tag obtained from a veterinarian for immunization against rabies is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the rabies tag was issued, except as provided in subsection 3.

3. Exemption from fees. A municipal clerk or a veterinary licensing agent shall issue a license upon application and without payment of a license fee required under this section for:

- A. A trained guide dog owned or kept by a visually impaired person or such a dog awaiting training;
- B. A trained hearing dog owned or kept by a hearing-impaired person or such a dog awaiting training;
- C. A trained service dog owned or kept by a physically impaired person or such a dog awaiting training;
- D. A trained search and rescue dog recognized by the Department of Inland Fisheries and Wildlife or by the statewide association of search and rescue that cooperates with the Department of Inland Fisheries and Wildlife in developing standards for search and rescue or such a dog awaiting training ; and
- E. A dog certified by the State and used for law enforcement purposes.

4. Late fees. An owner or keeper required to license a dog under section 3922, subsection 1 or section 3923-C, subsection 1 and applying for a license for that dog after January 31st shall pay to the municipal clerk or dog recorder a late fee of \$5 in addition to the annual license fee paid in accordance with subsection 1 or 2 and section 3923-C, subsection 1. The clerk or dog recorder shall deposit all late fees collected under this subsection into the municipality's animal welfare account established in accordance with section 3945.

An owner or keeper whose name appears on a municipal warrant issued in accordance with section 3943 must pay the late fee required by that section and is not subject to this subsection.

7 § 3923-B. Tags and stickers

1. Tags and stickers. The municipal clerk shall provide with each new license issued under section 3923-A a tag indicating the year the license is issued and bearing other information prescribed by the department. The tag remains with the dog for as long as the dog is kept in the licensing municipality. At each license renewal, the municipal clerk shall provide a sticker indicating the year for which the license is valid. The sticker must be attached to the back of the tag. The owner or keeper shall make sure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued, except as provided in subsection 3.

If a sticker and tag are lost or the owner has moved to a different municipality, the owner or keeper of the dog shall obtain a new license, tag and sticker. The municipal clerk shall issue another license, tag and sticker upon presentation of the original license and payment of \$1. The clerk shall retain the \$1 for a recording fee.

3. Exceptions. A dog is not required to wear a tag when on the premises of the owner or off the premises of the owner while hunting, in training or in an exhibition. When a dog is hunting, in training or in an exhibition, its owner or keeper shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

7 § 3923-C. Kennel license

1. License necessary. A person having a pack or collection of dogs for the purposes set forth in section 3907, subsection 17 shall obtain a kennel license from the clerk of the municipality where the dogs are kept and that person is subject to rules adopted by the department. The sex, registered number and description are not required of dogs covered by a kennel license. The license expires December 31st annually. The kennel license permits the licensee or authorized agent to transport under control and supervision the kennel dogs in or outside the State.

2-A. License fees. A kennel owner shall pay a fee of \$42 to the municipal clerk for each license to keep dogs. A license is needed only for dogs 6 months of age or older. A kennel owner may not keep more than 10 dogs per license. The clerk shall retain \$2 as a recording fee and forward

\$10 to the municipality's animal welfare account established pursuant to section 3945 and \$30 to the Animal Welfare Fund.

3. Form of license. The license must be issued in triplicate, the original copy of which is given to the applicant and the remaining 2 copies retained by the municipal clerk. A license covers a maximum of 10 dogs.

4. Kennel tags. Dogs covered by a kennel license must be furnished suitable kennel tags and stickers that must be attached to the back of the tag indicating the year the license is issued and bearing other information as prescribed by the department and are not required to be individually licensed.

5. Kennel inspection and quarantine. Except for a kennel inspected by the department in accordance with chapter 723, an animal control officer must inspect annually a kennel prior to the municipality issuing a kennel license. In addition to the annual inspection required under this subsection, an animal control officer, at any reasonable time, escorted by the kennel owner or the kennel owner's agent, may inspect the kennel. Inspections must be conducted in accordance with the sanitation and health rules established by the department for compliance with laws and rules. In conducting inspections, an animal control officer must use measures established by the department through rulemaking to prevent the spread of infectious and contagious diseases. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

A veterinarian employed by the State or any licensed veterinarian may quarantine the kennel in person or by registered mail and the quarantine must be maintained as long as the veterinarian determines necessary. The decision and order for this quarantine is not considered a licensing or an adjudicatory proceeding as defined by the Maine Administrative Procedure Act.

7 § 3923-D. Temporary licenses

An animal shelter may issue a temporary dog license when transferring ownership vested in the animal shelter under section 3913, subsection 4 to a person buying or otherwise accepting ownership. The department shall provide animal shelters with temporary license forms. The animal shelter shall complete all information prescribed on the form, provide the owner with the original temporary license and submit the copy for the municipal clerk and the animal control officer to the appropriate municipal clerk. The animal shelter may retain a copy of the temporary license to comply with section 3914. A temporary license is valid for a period of 10 days beginning on the date of issuance. An animal shelter may charge \$1 for issuing a temporary license.

7 § 3923-E. Monthly report

Municipal clerks or dog recorders shall receive the license fees in accordance with sections 3923-A and 3923-C, pay them to the department and make a monthly report to the department on a department-approved form of all licenses issued and fees received.

7 §3923-F. Veterinarian serving as dog licensing agent

The commissioner may authorize a veterinarian licensed in accordance with Title 32, chapter 71-A to issue dog licenses under section 3923-A. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The rules must provide a process for identifying veterinarians who are willing to serve as dog licensing agents, for distributing license blanks, tags and stickers, and for the collection, distribution and deposit of license fees into the appropriate municipal and state accounts.

§3923-G. Internet licensing project

1. Procedure developed: municipality participation. The commissioner may develop and implement a procedure by which a dog owner can electronically apply for and be issued a dog license using a publicly accessible site on the Internet. A municipality may choose to participate in the electronic dog licensing project by contacting and working with the commissioner. Electronic licensing is available only to residents of a municipality that requests and is accepted by the commissioner to participate in the electronic licensing project. The commissioner may limit the number of municipalities that participate in the project.

2. Forms: verification of rabies immunization. The commissioner shall develop a form to be used for electronic licensing under this section. The commissioner shall consult with the Commissioner of Human Services to establish the information needed to verify rabies immunization.

3. Payment of licensing fee. The commissioner shall establish a mechanism for accepting payment of license fees by credit card. An owner or keeper who applies for a dog license using the publicly accessible site on the Internet developed pursuant to subsection 1 shall pay the fee required under section 3923-A and an additional service fee of \$1 for each license to cover administrative costs and pay the Internet service provider.

4. Distribution of licensing fee. The commissioner shall deposit all fees received under this section into the Animal Welfare Fund. The commissioner shall establish procedures for participating municipalities to periodically receive the appropriate credit or payment for license fees collected by the department under this section. A municipality is entitled to a payment or credit of \$3 for each dog licensed under this section. All payments or credits received by a municipality must be deposited or credited to the municipality's animal welfare account established in accordance with section 3945.

5. Sticker requirement. Notwithstanding section 3923-B, for a dog licensed under this section, the commissioner may waive the requirement that a sticker indicating the year for which a license is valid be affixed to the tag. An owner of a dog that does not have a valid sticker affixed to its tag shall produce proof of licensure and proof of rabies immunization within 24 hours upon request by a humane agent, animal control officer or law enforcement officer, including a game warden.

7 § 3924. Violation

1. Civil violation. Any person who violates any section of this chapter commits a civil violation for which a forfeiture not to exceed \$100 may be adjudged.

2. Unlawful use of collar or tag. A person who removes a tag or who places a tag on a dog for which the license was not issued commits a civil violation for which a forfeiture of not more than \$100 may be adjudged.

CHAPTER 725 MUNICIPAL DUTIES

7 § 3941. Posting of law

Municipal clerks, annually, at least 20 days before January 1st, shall post copies of chapter 721 and this chapter in the usual places for posting notices of the annual municipal elections.

7 § 3942. Issuance of dog licenses

Municipal clerks shall issue dog licenses in accordance with chapter 721, receive the license fees and pay to the department \$9 for dogs capable of producing young and \$3 from each license fee received for dogs incapable of producing young. The clerks shall keep a record of all licenses issued by them, with the names of the owners or keepers of dogs licensed and the sex, registered numbers and description of all dogs except those covered by a kennel license. The clerks shall make a monthly report to the department on a department-approved form of all dog licenses issued and fees received.

The clerk shall retain \$1 from each license fee as a recording fee. The clerk shall deposit \$2 from each license for a dog incapable of producing young in the municipality's animal welfare account established in accordance with section 3945.

7 § 3943. Municipal warrants

1. Procedure. Between February 1st and April 1st annually, the municipal officers of each municipality shall issue a warrant with the names and addresses of all owners or keepers of unlicensed dogs to one or more police officers, constables, sheriffs or animal control officers, directing them to send a notice of violation to the last known address of the owners or keepers or call on the owners or keepers. The warrant must further direct that demand be made on the owners or keepers to obtain a license from the municipal clerk within 7 days from the date of demand and remit to the clerk the license and recording fees plus a late fee of \$25 for each dog that is licensed. Finally, the warrant must direct the police officer, constable, sheriff or animal control officer to enter summons and complaint as soon as possible for all owners or keepers so notified who fail to comply with the order.

2. Returns of warrant. Each police officer, constable, sheriff or animal control officer to whom the warrant is issued shall return the warrant to the municipal clerk on or before July 1st of each year.

3. Payments to officers. Payment to certain officers must be as follows.

A. The municipal clerk shall deposit the late fees collected from all dog owners and keepers in a separate account pursuant to section 3945.

B. Officers rendering services are entitled to compensation as the municipal officers may determine.

7 § 3944. Issuance of kennel licenses

Municipal clerks and dog recorders shall issue kennel licenses to kennel owners or operators in accordance with section 3923-C.

7 § 3945. Use of license fees and court fines retained by municipalities

Except for the \$1 recording fee pursuant to section 3942 retained by the municipal clerk, all fees and court fines retained by municipalities must be kept in a separate account and must be used for the salaries and costs of animal control, enforcement of licensing laws, care of stray animals that are injured or abandoned and the support of one or more approved animal shelters. Any money not expended for these purposes in a municipality's fiscal year does not lapse, but must be carried over to the next fiscal year.

7 § 3946. Dog recorders in unorganized territories

Dog recorders appointed by the commissioner in unorganized territories shall issue dog licenses, receive the license fees and pay them to the department. The recorders shall keep the clerk's copy of all licenses issued by them and make reports to the department on a form approved by the department of all licenses issued and fees received. The recorders shall report following each month in which licenses are actually issued and fees are actually collected.

7 § 3947. Animal control officers

Each municipality shall appoint one or more animal control officers whose duties are enforcement of sections 3911, 3912, 3916, 3921, 3924, 3943, 3948, 3950, 3950-A, 3952 and 4041 and Title 17, section 1023 responding to reports of animals suspected of having rabies in accordance with Title 22, sections 1313 and 1313-A and such other duties to control animals as the municipality may require.

A municipality may not appoint a person who has been convicted of a criminal violation under Title 17, chapter 42 or has been adjudicated of a civil violation for cruelty to animals under chapter 739 to the position of animal control officer.

Animal control officers must be certified in accordance with section 3906-B, subsection 4. Upon initial appointment, an animal control officer must complete training and be certified by the commissioner within 6 months of appointment.

Upon appointment of an animal control officer, municipal clerks shall notify the commissioner of the name, address and telephone number of the animal control officer.

7 § 3948. Animal control

1. Control. Municipalities shall control dogs at large.

2. Medical attention. Law enforcement officers and animal control officers shall take a stray animal to its owner, if known, or, if the owner is unknown, to an animal shelter and ensure that any injured animal that is at large or in a public way is given proper medical attention.

3. Domesticated and undomesticated animals. A municipality shall control domesticated animals that are a cause of complaint in the community. A municipality shall control animals that pose a threat to public health or safety. A municipality may control undomesticated animals in matters on which no other department is charged by law to regulate.

7 § 3949. Animal shelter designation

Municipal clerks, annually, on or before April 1st, shall certify to the commissioner the name and location of the animal shelter with which the municipality has entered into a contract to accept stray animals or have an arrangement for an animal shelter that will accept stray animals. Animal shelters designated by the municipality under this section must comply with commissioner rules.

7 § 3950. Local regulations

Each municipality is empowered to adopt or retain more stringent ordinances, laws or regulations dealing with the subject matter of this chapter, except that municipalities may not adopt breed-specific ordinances, laws or regulations. Any less restrictive municipal ordinances, laws or regulations are invalid and of no force and effect.

7 § 3950-A. Official refusal or neglect of duty

Any mayor, municipal officer, clerk, town or city manager, administrative assistant to the mayor, town or city councilor, dog recorder of unorganized territories, constable, police officer, sheriff or animal control officer who refuses or intentionally fails to perform the duties imposed by chapters 719, 720, 721, 725 and 727 and by this chapter commits a civil violation for which a forfeiture of not less than \$50 nor more than \$250 and costs may be adjudged.

The Commissioner, at its own instance or upon written complaint made to it by any person, shall investigate any alleged refusal or neglect of duty by any municipal officer.

The Commissioner shall direct proceedings, actions and prosecutions to be instituted to enforce all laws relating to animals and to the liability of municipal officers and their agents for failure, neglect or refusal to comply with the laws relating to animals.

The Attorney General and district attorneys, upon the Commissioner's written request, shall institute such legal proceedings as may be necessary to carry out this section.

FLOODPLAIN MANAGEMENT ORDINANCE
FOR THE
TOWN OF BROOKS, MAINE

ENACTED:

March 20, 2004
Date

CERTIFIED BY:

Jane McLaughlin
Name

Town Clerk
Title

Affix Seal

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Brooks, 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 Brooks, 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 Brooks, 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 Brooks has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A M.R.S.A., Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Brooks 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 Brooks, Maine.

The areas of special flood hazard, are identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of Brooks, Maine, Waldo County," dated September 18, 1985, which is 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 X III), 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 Brooks, 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), or to a locally established datum, of the:
1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined:
 - a. 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 V I J. and V I I D.;
 - b. 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,
 - c. 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.
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article V I;
- 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 V I by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, 08/99, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article I I I H 4.; Article V I G. ; and other applicable standards in Article V I;
 2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article V I K 2 a.;
 3. a certified statement that bridges will meet the standards of Article V I L.;
 4. a certified statement that containment walls will meet the standards of Article V I M.;
- 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 V I will be met.

ARTICLE IV -APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$50.00 for new construction and substantial improvement or \$25.00 for redevelopment 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 data contained in the "Flood Insurance Rate Map - Town of Brooks, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation 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 IIIH 1.; Article VIJ.; and Article VIID., 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 IIIH 1., 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 V I, 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 V I G 1, 2., and 3. 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 V I I., 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, V I, and V II 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 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.; Article V.B.; or Article V.III.D.
- G. Non Residential - New construction or substantial improvement of any non-residential structure located within 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.; Article V.B.; or Article V.III.D., or together with attendant utility and sanitary facilities shall:
1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.; Article V.B.; or Article V.III.D., so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
 3. 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 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.
- H. Manufactured Homes - New or substantially improved manufactured homes located within Zone A shall:
1. be elevated 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.; Article V.B.; or Article V.III.D.;
 2. 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,
 3. 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:
 - a. 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,

- b. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (in manufactured homes less than 50 feet long require four additional ties per side).
 - c. all components of the anchoring system described in Article V III 3 a & b. shall be capable of carrying a force of 4800 pounds.
- I. Accessory Structures - Accessory Structures, as defined in Article X III, located within Zone A, shall be exempt from the elevation criteria required in Article V I F. & G. above, if all other requirements of Article V I 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 V I K 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.
- J. Floodways - Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is 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, 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:
 - 1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - 2. 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).
- K. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zone A that meets the development standards of Article V I, including the elevation requirements of Article V I, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 - 1. Enclosed areas are not "basements" as defined in Article X III;
 - 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 form 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.
- L. Bridges - New construction or substantial improvement of any bridge in Zone 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 utilizing information obtained pursuant to Article III H 1.; Article V B.; or Article V III D.; 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 V I J.; 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.
- M. Containment Walls - New construction or substantial improvement of any containment wall located within Zone A shall:
- 1. have the containment wall elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III H 1.; Article V B.; or Article V III D.
 - 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice form 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.

N . Wharves, Piers and Docks - New construction or substantial improvement of wharves, piers, and docks are permitted in Zone 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 Brooksmay, 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 VIJ. 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 and Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board 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 M RSA § 4452.
- B. The penalties contained in Title 30-A M RSA § 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, shall 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 Rate Map 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 - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

Development - means any change caused by individuals or entities to improved or unimproved real estate, including but not limited to the construction of buildings or other structures; the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials; and the storage, deposition, or extraction of materials, public or private sewage disposal systems or water supply facilities.

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zone 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 Zone 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 VIK ..

Elevation Certificate - An official form (FEMA Form 81-31, 07/00, 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.

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.

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) 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 VIK 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, 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 VII, 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.

100-year flood - see Base Flood.

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. in Zone A riverine areas, the floodway 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 basements, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, or modification of any construction element, whether or not that alteration affects the external dimensions of the building.

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

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

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

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

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

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

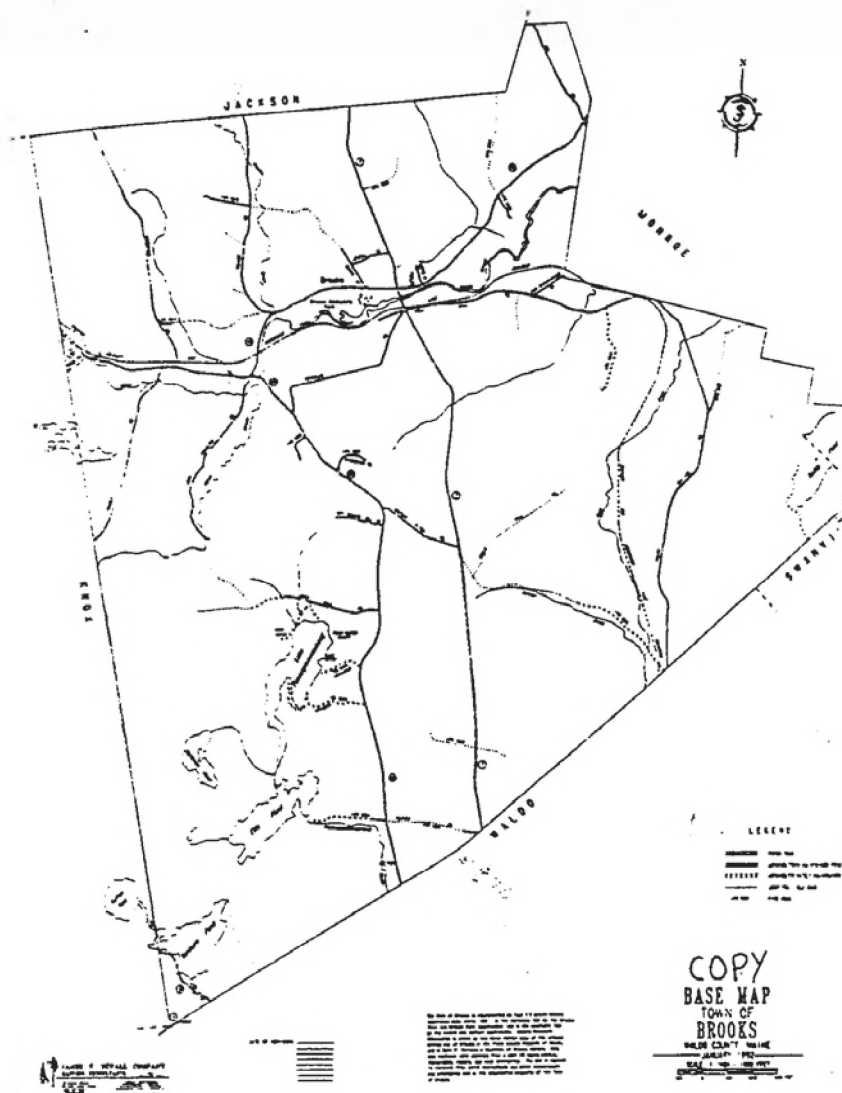
ARTICLE XIV - ABROGATION

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

60.3 (b)

TOWN OF BROOKS, MAINE SHORELAND ZONING ORDINANCE

FOR ADOPTION ON SEPTEMBER 9, 1993



*This document was developed by the Planning Board using the State of Maine
Guidelines for Municipal Shoreland Zoning Ordinances*

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Shoreland Zoning Ordinance for the Municipality of

Brooks, Maine

Section 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.

Section 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.).

Section 3. Applicability

This Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river or saltwater body; within 250 feet, horizontal distance, of the upland edge of a coastal or freshwater wetland; and 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 beyond the normal high-water line of a water body or within a wetland.

Section 4. Effective Date and Repeal of Formerly Adopted Ordinance

This Ordinance, which was adopted at Town Meeting on September 2, 1993, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance within forty-five (45) days of his/her receipt of the Ordinance, it shall be automatically approved. Upon approval of this Ordinance, the shoreland zoning ordinance previously adopted on December 15, 1973 and March 28, 1979 is hereby repealed.

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 if the Ordinance is approved by the Commissioner.

Section 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 this request. Notice of availability of this Ordinance shall be posted.

Section 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.

Section 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, the more restrictive provision shall control.

Section 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.

Section 9. Districts and Zoning Map

A. Official Shoreland Zoning Map of the Town of Brooks adopted September 2, 1993.

The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:

1. Resource Protection
2. Limited Residential
3. Limited Commercial
4. General Development
5. Stream Protection

NOTE: Although based on natural features such as ponds, streams and wetlands, the zones are regulatory districts of land use as defined in the ordinance, not the natural features themselves. Their depiction on the map is based on four current 1990 USF&W maps of Brooks. Since these Federal maps also may depict US jurisdictional wetlands, overseen by the Army Corps of Engineers, any person planning land purchase, construction, or development should consult the 1990 USF&W maps for more complete information.

The depiction and position of the Shoreland Zoning Districts on the map are merely illustrative of their location and natural features. The boundaries of these districts shall be determined by field measurement of the distance from the normal high water mark of the water body or the upland edge of the wetland, regardless of where they are shown to be on the map. Waterbodies fluctuate over time and where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to their location and extent.

B. Scale of Map

The Official Shoreland Zoning Maps 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. Official maps when not drawn from inspection and measurement in the field, shall be based on the latest series of U.S. Fish and Wildlife Quadrangle Maps, 7 1/2 minute series.

NOTE: Because of map scale or other reason, a municipality may have a series of maps depicting its shoreland zone.

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.

Section 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.

Section 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.

Section 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 shall be allowed to continue, subject to the requirements set forth in this section.

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 which 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.

NOTE: See Section 17 for the definitions of non-conforming structures, non-conforming uses and non-conforming lots.

C. Non-conforming Structures

1. Expansions: A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure.

Further Limitations:

- a. After January 1, 1989 if any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland, that portion of the structure shall not be expanded in floor area or volume, by 30% or more, during the lifetime of the structure.
 - b. Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure provided; that the structure and new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection 2. Relocation, below; that the completed foundation does not extend beyond the exterior dimensions of the structure; and that the foundation does not cause the structure to be elevated by more than three (3) additional feet.
 - c. No structure which is less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland shall be expanded toward the water body, tributary stream, or wetland.
2. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location

of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

3. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed 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 one year of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

Any non-conforming structure which is damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place with a permit, from the code enforcement officer.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 2 above, the physical condition and type of foundation present, if any.

4. Change of Use of a Non-conforming Structure

The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body 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, flood plain 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 permitted in Section 12(C)(1)(a) above.
2. Resumption Prohibited: A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been

used or maintained for residential purposes during the preceding five (5) year period.

3. Change of Use: An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources, 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) (4) above.

E. Non-conforming Lots

1. Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot 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.
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 and 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 nonconforming, owned by the same person or persons on the effective date of this Ordinance and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and:

- a. Each lot contains at least 100 feet of shore frontage and at least 43,560 square feet of lot area; or
- b. Any lots that do not meet the frontage and lot size requirements of subparagraph a. are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 43,560 square feet of lot area.

Section 13. Establishment of Districts

A. Resource Protection District

The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development, or Commercial Fisheries/Maritime Activities Districts need not be included within the Resource Protection District.

1. Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) as of January 1, 1973.

NOTE: The Natural Resources Protection Act, Title 38 Sections 480-A thru 480-S, requires the Department of Environmental Protection to designate areas of "significant wildlife habitat". Significant wildlife habitat includes:

Habitat for species appearing on the official state or federal lists of endangered or threatened species; high and moderate value deer wintering areas and travel corridors as defined by the Department of Inland Fisheries and Wildlife; high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas as defined by the Department of Inland Fisheries and Wildlife; critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; and shorebird nesting, feeding and staging areas and seabird nesting islands as defined by the Department of Inland Fisheries and Wildlife.

As these areas are mapped and development standards are established, municipalities should incorporate such areas and standards into their locally adopted ordinances.

2. Flood plains along rivers and flood plains along artificially formed great ponds along rivers, defined by the 100 year flood plain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. This district shall also include 100 year flood plains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
3. Areas of two or more contiguous acres with sustained slopes of 20% or greater.
4. 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 normal spring high water.
5. 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, the General Development District, or the Commercial Fisheries/Maritime Activities District.

C. Limited Commercial District

The Limited Commercial District includes areas of mixed, light commercial and residential uses, exclusive of the Stream Protection District, which should not be developed as intensively as the General Development 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. General Development District

The General Development District shall include the following types of areas:

1. Areas of two or more contiguous acres devoted to commercial, industrial or intensive recreational activities, or a mix of such activities, including but not limited to the following:
 - a. Areas devoted to manufacturing, fabricating or other industrial activities;
 - b. Areas devoted to wholesaling, warehousing, retail trade and service activities, or other commercial activities; and
 - c. Areas devoted to intensive recreational development and activities, such as, but not limited to amusement parks, race tracks and fairgrounds.
2. Areas otherwise discernable as having patterns of intensive commercial, industrial or recreational uses.

Portions of the General Development District may also include residential development. However, no area shall be designated as a General Development District based solely on residential use.

In areas adjacent to great ponds classified GPA and adjacent to rivers flowing to great ponds classified GPA, the designation of an area as a General Development District shall be based

upon uses existing at the time of adoption of this Ordinance. There shall be no newly established General Development Districts or expansions in area of existing General Development Districts adjacent to great ponds classified GPA, and adjacent to rivers which flow to great ponds classified GPA.

NOTE: See definition of "great pond classified GPA" in Section 17. No General Development District presently exists in Brooks or is depicted on the Shoreland Zoning Map.

E. 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, river or saltwater body, 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 is 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.

F. Shoreland Zoning Districts not shown on official map, but adopted as districts under this ordinance.

Note: Reference also is to be had to current U.S.G.S. 7.5-minute quadrangle maps, 1990 U.S. Fish and Wildlife maps of National Wetland Inventory, the 1989 D.E.P. map of freshwater wetlands of Brooks, and the 1983 Maine Geological Survey maps of wetlands in Brooks.

1. Stream Protection Districts

- a. Along Stantial Brook, from its confluence with Marsh Stream, northwesterly to the Brooks/Knox town line.
- b. Along Meadow Brook between wetland areas depicted on the official map, said wetlands being numbered 304 and 288 on the 1989 DEP map.
- c. Along Hussey Brook, from its entrance into the district of Dead Brooks wetland, near the "Big Hole" so-called, westerly to the powerline that runs northwesterly over Oak Hill.
- d. Along Dead Brook between wetland areas shown on the official map, said wetlands numbered 319 & 319 on the 1989 DEP map; and also along said brook southerly to the Brooks/Waldo town line.

2. Resource Protection District

On the westerly shore of Lake Passagassawaukeag below "Rocky Dundee" so-called, and also called Pond Hill on the USGS maps, at slopes greater than twenty percent and extending south to the outlet of the pond.

Note: This zone corresponds essentially to its portrayal on the official map filed by the State in 1979 and in the Town's possession, and thus may be considered as having been established as described above prior to its inclusion in this ordinance.

3. Limited Residential Districts

a. Around three wetlands lying between Routes 203 and the southeast shore of Lake Passagassawaukeag:

1) The first, identified as a forested wetland on the 1990 US Fish and Wildlife map, the first crossed by Fire Road #580 running westerly from Route 203.

2) The second, and next westerly along the road, numbered 315 on the 1989 DEP map, is identified as a scrub/shrub wetland on the 1990 US Fish and Wildlife map.

3) The third, southerly of any known dwelling, and identified as a scrub/shrub wetland on the 1990 US Fish and Wildlife map, lies contiguous to the southeasterly Shoreland Zone of Lake Passagassawaukead near the outlet and shown as a Resource Protection District where it enters the Limited Residential District along the shore.

b. Another Limited Residential District at the northeast inlet of Lake Passagassawaukeag, as an overlay of the Resource Protection District shown on the official map, at the Roger M. Torrey property, Book 916 Page 122 in the Waldo County Registry of Deeds, based on current use and planning.

4. Limited Commercial Districts

Also based on Current use and planning, the Town established Limited Commercial Districts at certain locations downtown and along Marsh Stream which are too small to be depicted accurately at the scale of the official map.

a. Along the north bank of Marsh Stream, from Route 7 to the southwest boundary of the Town Park, owned by the Brooks Booster Club.

b. Along the south bank of Marsh Stream, from Route 7 to the eastern boundary of the J.P. Wentworth General Store property, Book 796, Page 471 and Book 815, Page 33 in the Waldo County Registry of Deeds.

c. At the outlet of the Graham Millpond, as an overlay of the Stream Protection District, and within one hundred (100) feet upstream and downstream of the dam at Marsh Stream.

Section 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 - Requires permit issued by the Planning Board

CEO - Requires permit issued by the Code Enforcement Officer

LPI - Requires permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

LC - Limited Commercial

GD - General Development

SP - Stream Protection

The following notes are applicable to the **Land Uses Table** on the following page:

NOTE: The term "functionally water-dependent use" as defined, includes a very diverse group of uses ranging from large, industrial facilities that receive shipments by water or use water for cooling, to traditional commercial fishing enterprises, and public shorefront parks. A municipality can narrow the range of permitted uses by precluding certain functionally water-dependent uses, or by adopting conditional uses for certain functionally water-dependent uses that it determines would only be compatible with its plan for the waterfront under certain conditions.

Section 15. Land Use Standards

NOTE: Municipalities should review the land use standards contained herein to determine whether they will result in a scale of development that is compatible with existing development or with the future desired scale of development. If not, more restrictive land use standards may be adopted by the municipality.

All land use activities within the shoreland zone shall conform with the following provisions with respect to minimum lot area and shore frontage:

A. Minimum Lot Standards

All structures shall have lots at least 43,560 square feet (1 acre) in area with no less than 200 feet of shore frontage except for governmental institutional, commercial or industrial structures, which shall have lots no less than 60,000 square feet in area and no less than 300 feet of shore frontage. all public and private recreational facilities shall have lots no less than 43, 560 square feet (1 acre) in area and 200 feet of shore frontage.

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 or more than one principal commercial or industrial structure is constructed on a single parcel, all dimensional requirements shall be met for each additional dwelling unit or principal structure.

NOTE: Municipalities may include provisions for clustered housing within the shoreland zone provided that the overall dimensional requirements, including frontage and lot area per dwelling unit are met. When determining whether dimensional requirements are met, only land area within the shoreland zone shall be considered.

B. Principal and Accessory Structures

1. All new principal and accessory structures shall be set back at least one hundred (100) feet 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 from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development District the setback from the normal high-water line shall be at least twenty-five (25) feet, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback.

In addition:

- a. The water body or wetland setback provision shall neither apply to structures which require direct access to the water 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 Title 38 M.R.S.A., Section 437, shall be set back a minimum of one hundred and twenty-five (125) feet 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.

**NOTE: A municipality may within its ordinance, authorize the Planning Board to increase the required setback of a proposed structure, as a condition to permit approval, if necessary to accomplish the purposes of this ordinance. Instances where a greater setback may be appropriate include, but not be limited to, areas of steep slope; shallow or erodible soils; or where an adequate vegetative buffer does not exist.*

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 first 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.
4. The total area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers which do not flow to great ponds classified GPA, and in the Commercial Fisheries/Maritime Activities District, where lot coverage shall not exceed seventy (70) percent.
5. Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided; that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38, Section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

C. Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland.

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not interfere with existing developed or natural beach areas.
3. The facility shall be located so as to minimize adverse effects on fisheries.

4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
5. No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity.
6. 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.
7. All 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.

NOTE: Permanent structures projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the Natural Resources Protection Act, Title 38 M.R.S.A., Section 480-C.

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 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 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 permitted provided the following conditions are met:

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet 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 from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

3. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, and no structure(s) except canopies shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
5. A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
6. When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

F. Commercial and Industrial Uses

The following new commercial and industrial uses are prohibited within the shoreland zone adjacent to great ponds classified GPA, and rivers and streams which flow to great ponds classified GPA:

- a. Auto washing facilities
- b. Auto or other vehicle service and/or repair operations, including body shops
- c. Chemical and bacteriological laboratories
- d. Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms
- e. Commercial painting, wood preserving, and furniture stripping
- f. Dry cleaning establishments
- g. Electronic circuit assembly
- h. Laundromats, unless connected to a sanitary sewer
- i. Metal plating, finishing, or polishing
- j. 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
- k. Photographic processing
- l. Printing

G. Parking Areas

1. Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
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, 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 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 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 Planning Board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. 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 for each five (5) percent increase in slope above twenty (20) percent.

This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.

2. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
3. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
4. Road 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 subsection Q.
5. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
6. In order to prevent road surface drainage from directly entering water bodies, roads 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. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road 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 at intervals no greater than indicated in the following table:

| Road 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 road grade is ten (10) percent or less.
 - c. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
 - d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads 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 and billboards relating to goods and services sold on the premises shall be permitted, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. Billboards and signs relating to goods or services not sold or rendered on the premises shall be prohibited.

2. Name signs shall be permitted, provided such signs shall not exceed two (2) signs per premises.
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 permitted 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 permitted without restriction.
6. No sign shall extend higher than twenty (20) feet above the ground.
7. Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

1. All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwaters.
2. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

1. All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules (Rules).

NOTE: The Rules, among other requirements, include:

- a. The minimum setback for new subsurface sewage disposal systems, shall be no less than one hundred (100) horizontal feet from the normal high-water line of a perennial water body. The minimum setback distances from water bodies for new subsurface sewage disposal systems shall not be reduced by variance.*
- b. Replacement systems shall meet the standards for replacement systems as contained in the Rules.*

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 is not permitted 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 permitted, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.

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, so as 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 paragraph 4 below.
2. Unless authorized pursuant to the Natural Resources Protection Act, Title 38, M.R.S.A, Section 480-C no part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet 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 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 seventy-five (75) feet 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, Title 38, Maine Revised Statutes Annotated, Section 1310 and Chapter 404 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 to one (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 or disposal of manure shall be accomplished in conformance with the Maine Guidelines for Manure and Manure Sludge Disposal on Land published by the University of Maine Soil and Water Conservation Commission in July, 1972.
2. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond, classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water 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.

NOTE: Assistance in preparing a soil and water conservation plan may be available through the local Soil and Water Conservation District office.

4. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies; nor within twenty-five feet, horizontal distance, of tributary streams, and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
5. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance of other water bodies, nor; within twenty-five (25) feet, horizontal distance, of tributary streams, and 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 Soil and Water Conservation Plan.

O. Timber Harvesting

1. In a shoreland area zoned for resource protection abutting a great pond, timber harvesting shall be limited to the following:
 - a. Within the strip of land extending 75 feet inland from the normal high-water line there shall be no timber harvesting, except to remove safety hazards.

- b. Beyond the 75 foot "no-harvest" strip referred to in paragraph a. above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 1 inch in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
2. Except in areas as described in Paragraph 1 above, timber harvesting shall conform with the following provisions:
- a. Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - i. Within one-hundred (100) feet, horizontal distance of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - ii. At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet apart. Such clearcut openings shall be included in the calculation of total volume removal. For the purposes of these standards volume may be considered to be equivalent to basal area.
 - b. Timber harvesting operations exceeding the 40% limitation in paragraph a. above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
 - c. No accumulation of slash shall be left within fifty (50) feet of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body shall be removed.
 - d. Timber harvesting equipment shall not use stream channels as travel routes except when:
 - i. Surface waters are frozen; and
 - ii. The activity will not result in any ground disturbance.

- e. All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- f. Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- g. Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing of Vegetation for Development

- 1. Within a shoreland area zoned for Resource Protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

Elsewhere, in any Resource Protection District the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

- 2. Except in areas as described in Paragraph 1, above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - a. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond classified GPA, or stream or river flowing to a great pond classified GPA, the width of the foot path shall be limited to six (6) feet.
 - b. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a "well-distributed stand of trees and other vegetation" 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 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

| <u>Diameter of Tree at 4-1/2 feet Above Ground Level (inches)</u> | <u>Points</u> |
|---|---------------|
| <u>2 - 4 in.</u> | <u>1</u> |
| <u>>4 - 12 in.</u> | <u>2</u> |
| <u>> 12 in.</u> | <u>4</u> |

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees and other vegetation" is defined as maintaining a minimum rating score of 8 per 25-foot square area.

Note: As an example, adjacent to a great pond, if a 25-foot x 25-foot plot contains three (3) trees between 2 and 4 inches in diameter, three trees between 4 and 12 inches in diameter, and three trees over 12 inches in diameter, the rating score is:

$$(3 \times 1) + (3 \times 2) + (3 \times 4) = 21 \text{ points}$$

Thus, the 25-foot by 25-foot plot contains trees worth 21 points. Trees totaling 9 points (21 - 2 = 9) may be removed from the plot provided that no cleared openings are created.

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, adjacent to great ponds classified GPA, and streams and rivers which flow to great ponds classified GPA, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a. above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas, however, shall be limited to the minimum area necessary.

- 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, except to allow for the development of permitted uses, there shall be permitted 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 development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is greater, including land previously developed. This provision shall not apply to the General Development or Commercial Fisheries/Maritime Activities District.

4. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
5. Fields which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

Q. Erosion and Sedimentation Control

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

R. Soils

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

S. Water Quality

No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body.

T. Archaeological Sites

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

Note: Municipal officials should contact the Maine Historic Preservation Commission for the listing and location of Historic Places in their community.

Section 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 Title 30-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 permit is not required for the replacement of an existing road culvert as long as:

1. The replacement culvert is not more than one standard culvert size wider in diameter than the culvert being replaced;
2. The replacement culvert is not more than 25% longer than the culvert being replaced;
3. The replacement culvert is not longer than 75 feet; and
4. Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the water course.

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 the owner or owners of the property or other person authorizing the work, certifying that the information in the application is complete and correct. If the person signing the application is not the owner or lessee of the property then that person shall submit a letter of authorization from the owner or lessee.
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 would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits

Within 35 days 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 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 one is held. Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this ordinance.

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

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

1. Will maintain safe and healthful conditions;
2. Will not result in water pollution, erosion, or sedimentation to surface waters;
3. Will adequately provide for the disposal of all wastewater;
4. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. Will protect archaeological and historic resources as designated in the comprehensive plan;
7. Will avoid problems associated with flood plain development and use; and
8. Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. Expiration of Permit

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property within one year of the date of the permit, the permit shall lapse and become void.

F. Installation of Public Utility Service

No public utility, water district, sanitary district or any utility company of any kind may install services to any new structure 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. Following installation of service, the company or

district shall forward the written authorization to the municipal officials, indicating that installation has been completed.

G. 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 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 of this Ordinance.
- b. Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.

2. Variance Appeals

Variances may be permitted 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:
 - (1)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
 - (2)The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean:

- (i) That the land in question cannot yield a reasonable return unless a variance is granted;
 - (ii) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - (iii) That the granting of a variance will not alter the essential character of the locality; and
 - (iv) That the hardship is not the result of action taken by the applicant or a prior
- d. The Board of Appeals may grant a variance to a property owner for the purpose of making that

(iv) That the hardship is not the result of action taken by the applicant or a prior

- d. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. 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 property 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 on the property. The term "structures necessary for access to or egress from the property" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- e. The Board of Appeals shall limit any variances granted as strictly as possible in order to 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.
- f. 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.

3. Appeal Procedure

a. Making an Appeal

- (1) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. 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) Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - (i) A concise written statement indicating what relief is requested and why it should be granted.
 - (ii) A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (3) 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) The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

b. Decision by Board of Appeals

- (1) A majority of the board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.
- (2) The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board, or to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. 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.
- (3) The person filing the appeal shall have the burden of proof.
- (4) The Board shall decide all appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
- (5) 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.

4. Appeal to Superior Court

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.

5. Reconsideration

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

H. 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.
- c. The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

3. Legal Actions

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

4. Fines

Any person, including but not limited to a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A, Maine Revised Statutes Annotated, Subsection 4452.

NOTE: Current penalties include fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues.

Section 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.

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

Aggrieved party - an owner of land whose property is directly or indirectly affected by the granting or denial of a permit or variance under this Ordinance; a person whose land abuts land for which a permit or variance has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of such permit or variance.

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.

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

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

Coastal wetland - all tidal and subtidal lands; all lands below any identifiable debris line left by tidal action; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land which is subject to tidal action during the maximum spring tide level as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

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.

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 lots or less.

Emergency operations - operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings, property and livestock from the threat of destruction or injury.

Essential services - gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment;

gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

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

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

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

Floor area - the sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

Forest management activities - timber cruising and other forest resource evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads.

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall 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, and certain designated 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.

Functionally water-dependent uses - those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to commercial and recreational fishing and boating facilities, finfish and shellfish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primarily provide general public access to marine or tidal waters.

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

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

Height of a structure - 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.

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.

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 gravel pads, parking areas, fire places, or tent platforms.

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

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, boat 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.

Minimum lot width - the closest distance between the side lot lines of a lot.

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.

Multi-unit residential - a residential structure containing three (3) or more residential dwelling units.

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

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

Non-conforming use - use of buildings, structures, premises, land or parts thereof which is not permitted in the district in which it is situated, but which is allowed to remain solely because it was in lawful existence at the time this Ordinance or subsequent amendments took effect.

Normal high-water line - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers and great ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water.

Person - an individual, corporation, governmental agency, municipality, trust, estate, partnership, association, two or more individuals having a joint or common interest, or other legal entity.

Piers, docks, wharfs, bridges and other structures and uses extending over or 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 building other than one which is used for purposes wholly incidental or accessory to the use of another building or use on the same premises.

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

Public facility - any facility, including, but not limited to, buildings, property, recreation areas, and roads, which are owned, leased, or otherwise operated, or funded by a governmental body or public entity.

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

Fryeburg
Lovewell
Alluvial
Podunk

Hadley
Medomak
Cornish
Rumney

Limerick
Ondawa
Charles
Saco

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.

Residual Basal Area - the sum of the basal area of trees remaining on a harvested site.

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.

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 - 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.

Salt marsh - Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly 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 which 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.

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

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, river, or saltwater body; within 250 feet of the upland edge of a coastal or freshwater wetland; or within seventy-five (75) feet of the normal high-water line of a stream.

Significant River Segments - See Title 38 MRSA Sec. 437.

Stream - a free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another 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. The term includes structures temporarily or permanently located, such as decks and satellite dishes.

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

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

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

Timber harvesting - the cutting and removal of trees from their growing site, and the attendant operation of cutting and skidding machinery but not the construction or creation of roads. Timber harvesting does not include the clearing of land for approved construction.

Tributary stream - a channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. 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.

Upland edge - the boundary between upland and wetland.

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.

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, stream or tidal area.

Water Crossing - any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. 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.

Wetland - a freshwater or coastal wetland.

Wetlands associated with great ponds and rivers - wetlands contiguous with or adjacent to a great pond or river, and which during normal high water, are connected by surface water to the great pond or river. Also included are wetlands which are separated from the great pond or river by a berm, causeway, or similar feature less than 100 feet in width, and which have a surface elevation at or below the normal high water line of the great pond or river. Wetlands associated with great ponds or rivers are considered to be part of that great pond or river.

SUBDIVISION ORDINANCE FOR THE TOWN OF BROOKS

Prepared by the
Town of Brooks Planning Board

2007

This is an ordinance to guide the Planning Board of the Town of Brooks in considering proposed subdivisions.

ARTICLE 1 PURPOSE

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Brooks, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Brooks, Maine, the Planning Board shall consider certain outlined criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of the State of Maine. (Title 30, AMRSA, Sec 4401)

ARTICLE II – AUTHORITY AND ADMINISTRATION

2.1 Authority

- A. These standards have been prepared in accordance with the State of Maine (Title 30A M.R.S.A Sec 4401-4407 Subsection 2).
- B. These standards shall be known and may be cited as “Subdivision Ordinance of the Town of Brooks, ME”.

2.2 Administration

- A. The Planning Board of the Town of Brooks, herein called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30 A M.R.S.A Sec. 4401-4407 within the boundaries of the Town of Brooks.

ARTICLE III DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Cluster Subdivision: A form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open and recreational areas, the preservation of environmentally sensitive areas, agriculture and silviculture (forestry) and the reduction in the size of road and utility systems.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote of the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan: Any part or the whole of the document so called and adopted by the Town of Brooks at the Town Meeting in the year 2004.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.

Densely Developed Area: Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Driveway: A vehicular access-way serving two dwelling units or less.

Dwelling Unit: Any part of a structure which, through sale or lease is intended for human habitation, including single family and multifamily housing, condominiums, apartments and time-share units.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved sealed and signed by the professional land surveyor under whose responsible charge they were completed and may be recorded at the Registry of Deeds. (See 30-A Sec. 4403)

Freshwater Wetland: Freshwater swamps, marshes, bogs and similar areas which are:

- A. 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 or wetland vegetation typically adapted for life in saturated soils; and
- B. Not considered part of a great pond, coastal wetland, river, stream, or brook. These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The highest level of flood that, on the average, is likely to occur every 100 years (that has a one percent chance of occurring in any year).

Normal High Water Mark of Inland Waters: That line along the shore of a great pond, river, stream, brook, or other nontidal body of water which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or form changes in vegetation and which distinguishes between predominantly terrestrial land.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial users, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Manufactured Housing: A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

- (1) Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems in the unit;
- (2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are

not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

Mobile Home Park: means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

Mobile Home Park Lot: means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan.

Mobile Home Subdivision or Development: means a parcel of land approved by the municipal reviewing authority for the placement of manufactured houses on individually owned land.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development and as outlined in Section 11.3.

Net Residential Density: The average number of dwelling units per residential acre.

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, or other legal entity as well as an individual.

Planned Unit Development: A development controlled by a single developer, for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road utility systems, and the retention of the natural characteristics of the land.

Planning Board: The 7 member Board of the Town of Brooks, as created at Special Town Meeting, May 19, 1988 for the purpose of planning the current and future development of the Town of Brooks.

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Spaghetti Lot: A lot in a proposed subdivision giving shore frontage on a river, stream, brook, great pond or coastal wetland with a lot depth to shore front ratio of greater than 5 to 1.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Street Classifications:

Numbered Highways: A major thoroughfare that serves as a major traffic way for travel between and through the Town of Brooks. The following roadways shall be considered: State Routes #7, #137, #139, and #203.

Town Roads: All other town maintained roads that serve as feeders to Numbered highways.

Public Easements: A road that the general public has the right of unobstructed access to by foot or motor vehicle, but which the municipality does not have the obligation to maintain.

Private Right-of-Way: A vehicular access way that is not intended to be dedicated as a public way.

Subdivision: The division of a tract or parcel of land into three or more lots within any five year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise. This includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5 year period.

A division accomplished by the following is considered exempt under this ordinance unless the intent of the transferor is to avoid the objectives of this ordinance:

- (1) Devise
- (2) Condemnation
- (3) Order of court
- (4) Gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift. If the real estate under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor," means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoptions. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.
- (5) Gift to the Town of Brooks
- (6) Transfers to owners of land abutting that land that does not create a separate lot
- (7) Transfer of a tract or parcel of land upon each of which permanent dwelling structures legally existed before September 23, 1971

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such divisions are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least five years immediately prior to such second dividing. Lots of forty or more acres shall not be counted as lots, except as prescribed by law.

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of the land on both sides thereof.

Subdivision, Major: Any subdivision containing five or more lots or dwelling units, or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing four lots or four dwelling units or less, and in which no street is proposed to be constructed.

Tract, or Parcel, of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

ARTICLE IV – ADMINISTRATIVE PROCEDURE

- 4.1 Purpose.** The purpose of this article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2 Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

ARTICLE V – PREAPPLICATION

5.1 Procedure.

- A. Applicant presentation and submission of sketch plans.
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling on-site inspection.

5.2 Submission. The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. (It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located.) The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten (10) acres in size.

5.3 Contour Interval and On-Site Inspection. Within thirty (30) days of Question and answer period, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan and hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection.

5.4 Rights not vested. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.S.R.A. S302.

ARTICLE VI – PRELIMINARY PLAN FOR MAJOR SUBDIVISION

6.1 Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit a subdivision application and a Preliminary Plan at least 21 days prior to a scheduled meeting of the Board. Failure to do so will require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for a Subdivision shall be accompanied by an application fee of \$80.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that the applicant deposit an additional \$25.00 per lot or dwelling unit. The Board shall continue to notify the applicant and require an additional \$25.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If the Board deems a public hearing necessary, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The subdivider shall provide a letter of notification, giving general description of the project, to the Board to be co-signed by the Chairperson and sent by registered mail to all abutting property owners.
- E. Within thirty (30) days of receipt of a Preliminary Plan, application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a completed application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 1. The specific changes which it will require in the Final Plan;
 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare.
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any.

6.2 Submissions.

A. Location Map. A Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality shall accompany the Preliminary Plan. The Location Map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings, which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch; The Board may allow plans for subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size 8½ by 11 inches or 11 by 17 inches, and all accompanying information shall be furnished to each Board member no less than seven (7) days prior to the meeting. The following information shall be either shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
2. Verification of right, title or interest in the property.
3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
7. The number of acres within the proposed subdivision, location of property lines, existing buildings, and watercourses, freshwater wetlands vegetative cover type, and other essential existing physical features.
8. Indication of the type of sewerage disposal to be used in the subdivision.
 - a. When sewerage disposal is to be accomplished by connection to a public sewer, a letter from the Sewer District indicating there is adequate capacity within the District's system to transport and treat the sewerage shall be submitted.
 - b. When sewerage disposal is to be accomplished by subsurface sewerage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
9. Indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by public water supply, a letter from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
10. The date the Plan was prepared, magnetic North point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
11. The names and addresses of the owners of record of the adjacent property, including any property directly across an existing public street from the subdivision.

12. The location of any zoning boundaries affecting the subdivision.
13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
14. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
15. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
16. The proposed lot lines with approximate dimensions and lot areas.
17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
21. A hydrogeological assessment, prepared in accordance with Section 10.11 by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, Map No. ____: or
 - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

ARTICLE VII – FINAL PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

Those Subdividers whose land is being divided into only 4 lots and who do not propose a street may turn their preliminary plan into their final plan with the approval of the Planning Board.

- A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least 21 days prior to a scheduled meeting of the Board. If the application of the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. An application fee of \$80.00, payable by check to the municipality, shall accompany all applications for Final Plan approval for Major Subdivision. If the Board deems a public hearing necessary, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing where appropriate:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. The Board may hold a public hearing within thirty (30) days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least ten (10) days prior to the hearing.

- G. The Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.
- I. If the subdivision is located in more than one municipality to discuss the Plan.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- K. The Board may require a soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of Technical Release 55, *Urban Hydrology for Small Watersheds*, published by the U.S. Soil Conservation Service.
- L. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- M. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- N. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street Maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Storm water drainage
- Wastewater treatment
- Water supply

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the sub-division.

- O. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

7.3 Final Approval and Filing.

- A. The Board shall approve no plan as long as the subdivider is in violation of the provisions on a previously approved Plan.
- B. Upon findings of fact and determination that all standards in Title 30, AMRA, Sec. 4401-4407, subsection 3, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. A majority of those Planning Board Members present and voting are given authority to make decisions reflecting actions of the Board pertaining to the applicant. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. The Board shall retain one copy of the signed plan as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article VII. The Board shall make findings that the revised meets the standards of Title 30-A MRSA, subsection 3, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment and maintenance of any such dedicated area.
- F. Failure to commence substantial construction of the subdivision within 2 years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VIII – REVISIONS TO APPROVED PLANS

8.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

8.2 Submissions.

The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations.

8.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the plan that are proposed to be changed and their impact on the overall sub-division.

ARTICLE IX – ENFORCEMENT

9.1 Inspection of Required Improvements.

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
 1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. the inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries changes of grade by more than 1%, etc, the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year, during which the construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do

the job they were designed for. The report shall also include a discussion and recommendations on any problems that were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a Town Meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

9.2 Violations and Enforcement.

- A. No plan of a subdivision of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until the Board in accordance with these regulations has approved a Final Plan.
- B. No person, firm, corporation or other legal entity may convey, solicit, offer, or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, solicit, offer, or agree to convey any land in a subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, solicits, offers, or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which the Board has not approved a Final Plan.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings that require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

ARTICLE X – GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

10.1 Conformance with Comprehensive Plan.

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the Town of Brooks and with the provisions of all pertinent state and local codes and ordinances.

10.2 Retention of Open Spaces and Natural or Historic Features.

- A. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
- B. The Board shall require the reservation of ten percent (10%) of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space, the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. The developer may instead make a payment in-lieu-of dedication into a municipal open space or recreation land acquisition fund.
- C. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary or appropriate.
- D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- E. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24" diameter breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas.
- F. If the proposed subdivision contains any identified historical or archeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare or irreplaceable natural areas, these areas shall be included in the open space and suitably protected by appropriate covenants and management plans.
- G. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.
- H. Subdivisions may not be situated on forestlands that have been the object of so-called "liquidation harvesting". The Planning Board must determine that the parcel has not been harvested in violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting. If a violation has occurred, the Planning Board must determine that at least 5 years has elapsed since the landowner who violated the rules first acquired the parcel. If less than 5 years has elapsed approval is prohibited. This is effective for lands acquired after 1/2/05. If the Planning Board needs assistance with this determination, they may inquire of the Department of Conservation or Bureau of Forestry. If these organizations cannot help then the Planning Board may require the applicator to provide a determination certified by a licensed forester.

10.3 Land Not Suitable for Development.

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law.

- A. Land that is situated below the normal high water mark of any water body.
- B. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which shows that the property in question

lies at least two feet above the 100 year flood level. The elevation of filled or made land shall not be considered.

- C. Land that is part of a right-of-way, or easement, including utility easements.
- D. Land which has a water table within ten (10) inches of the surface for at least three months of the year as identified by the County Soil Survey. The Board may use such lands in the lot area calculations if municipal sewage collection and treatment is provided and if the lot(s) are to be deed restricted to prohibit buildings with basements or require basement floor elevations one foot above the seasonal water table, and if domestic sewage can be treated safely based on state and local plumbing codes.
- E. Land that has been created by filling or draining a pond or wetland.

10.4 Blocks.

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 11-2. Maintenance obligations of the easement shall be included in the written description of the easement.

10.5 Lots. Minimum lot size is two acres.

- A. All lots shall meet the minimum, requirements of the Zoning Ordinance in the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation.
- B. Lot configuration and area shall be developed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions, shall indicate vehicular access shall be located only on the less traveled way.
- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extension of the utilities.
- F. If a lot on one side of a stream, inland water body, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, inland water body, or road to meet the minimum lot size or for the purposes of on-site waste disposal.
- G. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- H. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The Postmaster shall review the lot numbering and his comments considered by the Board.
- I. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.

- J. Any subdivision that crosses municipal boundaries shall not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways.

10.6 Utilities.

- A. Utilities shall be installed underground except as otherwise approved by the Board.

- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type and location of street lights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

10.7 Required Improvements.

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

- A. Monuments. All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by $\frac{3}{4}$ x four foot steel rebar set to a finish grade.
- B. Water Supply.
All subdivisions shall provide sufficient water for the reasonably foreseeable needs.
 - 1. When a subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.
 - a. The subdivider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.
 - b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.
 - 2. When the location of a subdivision does not allow for a financially reasonable connection to a public water system, the Board may allow the use of individual wells or a private community water system.
 - a. Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restriction and by a note on the plan.
 - b. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - c. The subdivider shall construct ponds and dry hydrants to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to and maintenance of the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.
- C. Sewage Disposal.
 - 1. Public System.
 - a. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1,000 feet of the proposed subdivision at its nearest point. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.

- b. The sewer district shall review and approve in writing the construction drawings for the sewage system.
- 2. Private Systems.
 - a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
 - b. In no instance shall a disposal area be permitted on soils or on a lot that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage.

The storm water management plan submitted in accordance with Section 11.4 shall be installed.

E. Municipal Solid Waste Disposal

The proposed subdivision will not cause an unreasonable burden on the Town of Brook's ability to dispose of solid waste, if municipal services are to be utilized.

10.8 Land Features.

- A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- C. To prevent soil erosion in the shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any waterbody shall be limited in accordance with the following: State Mandatory Shoreland Zoning Law – Title 38 Section 439 Subsection 6.
- D. The subdivision shall not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

10.9 Dedication and Maintenance of Common Open Space and Services

- 1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
- 2. Further subdivision of the common land or its use for other than the non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
- 3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - a. It shall not be used for future building lots, and
 - b. A part of all of the common open space may be dedicated for acceptance by the municipality.
- 4. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

5. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
6. The homeowners association shall have the responsibility of maintaining the common property or facilities.
7. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
8. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

10.10 Construction in Flood Hazard Areas.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot that is included or partially included in the flood hazard area.

10.11 Impact on Ground Water.

The following unless otherwise waived by the Planning Board.

- A. If a hydrogeologic assessment is required, the assessment shall contain at least the following information:
 1. A map showing the basic soils types.
 2. The depth to the water table at representative points throughout the subdivision.
 3. Drainage conditions throughout the subdivision.
 4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
 6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- B. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- C. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- D. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds in the affected lots.
- E. Surface water; outstanding river segments
Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, Subsection I article 2-B, the subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

ARTICLE XI – ROAD DESIGN & CONSTRUCTION STANDARDS

11.1 General Requirements.

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to lots.
3. The Department of Transportation has recommendations in pamphlet form for creation of driveways and roads that meet with state or state aid highways. These should be adhered to.
4. The Planning Board shall not approve any subdivision plan unless proposed roads are designed in accordance with the specifications contained in these regulations. Approval of a Final Plan by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
5. Applicants shall submit to the Planning Board, as part of their Final Plan, detailed construction drawings showing the plan profile and typical cross-section of the proposed roads. The plans shall include the following information:
 - a. Date, scale, and magnetic or true north point.
 - b. Intersections of the proposed road with existing roads.
 - c. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - d. Complete curve data shall be indicated for all horizontal and vertical curves.
 - e. Turning radii at all intersections.
 - f. Centerline gradients.
 - g. Locations of all existing and proposed utilities, culverts.

11.2 Road Design Standards

1. These design standards shall be met by all roads within subdivisions reviewed under these regulations, and shall control the roadway, shoulders, sidewalks, drainage systems, culverts, and other appurtenances.
2. Roads shall be designed to discourage through traffic within a subdivision.
3. Wherever existing or other proposed roads, topography, and the public safety permit, roads should run in east-west directions to maximize access for solar energy.
4. Any subdivision containing twenty (20) lots or more shall have at least two (2) road connections with existing public roads on an approved development plan for which performance guarantees have been filed and accepted.
5. The following design standards apply according to road classification:

| DESCRIPTION | PUBLIC RIGHTS-OF-WAY | PRIVATE RIGHTS-OF-WAY |
|---|-------------------------|--------------------------|
| Minimum Right-of-Way-Width | 50' | 50' |
| Minimum Pavement Width | 20' | 18' |
| Minimum Shoulder Width (each side) | 3' | 3' |
| Maximum Grade | 8% | 10% |
| Minimum Centerline Radius | 150° | 150° |
| Roadway Crown | 1/4"/foot | 1/4"/foot |
| Minimum angle of road intersections | 90 degrees | 90 degrees |
| Maximum grade within 75 feet of intersection (measured from edge of pavement) | 2% | 2% |
| Minimum shoulder radii at intersections | 15' | N/A |
| Minimum r/o/w radii at intersections | 10' | 10' |
| Minimum bottom of ditch below roadway elevation | 20" | 20" |

6. The centerline of the roadway shall be the centerline of the right-of-way.
7. Dead End Roads: In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:
8. Sixty five (65) foot property line radii and fifty (50) foot outer edge of travel way radii. The Planning Board may require the reservation of a twenty (20) foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road. The planning Board may also require the reservation of a fifty (50) foot easement in line with the dead end road to provide continuation of the road where future subdivision or development is possible. The maximum length of any dead end road shall not exceed 1,000'.

11.3 Road Construction Standards.

- A. Minimum thickness after compaction.

| <u>Street Materials</u> | <u>Minimum Requirements</u> | | | | |
|--|-----------------------------|------------------|--------------|--------------------|------------------------------|
| | <u>Arterial</u> | <u>Collector</u> | <u>Minor</u> | <u>Private ROW</u> | <u>Industrial Commercial</u> |
| Aggregate Sub-base Course (Max sized stone 4") | 18" | 18" | 18" | 18" | 18" |
| Crushed Aggregate Base Course | 12" | 12" | 12" | 12" | 12" |
| Hot Bituminous Pavement | | | | | |
| Total Thickness | 3" | 3" | 3" | 3" | 3" |
| Surface Course | 1 1/2" | 1 1/2" | 1 1/2" | 1 1/2" | 1 1/2" |
| Base Course | 1 1/2" | 1 1/2" | 1 1/2" | 1 1/2" | 1 1/2" |

B. Preparation.

1. Before any clearing has started on the right of way, the following shall be staked and flagged at 50' intervals:
 - a. Right-of-way lines
 - b. Edge of Pavement lines.
2. Before grading is started, the entire right of way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right of way.
3. All organic material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils that have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than four feet vertical to one foot horizontal is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right of way prior to paving.

C. Bases and Pavement

1. Bases.

- a. The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay or other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

| <u>Sieve Designation</u> | <u>Percentage by Weight Passing Square Mesh Sieves</u> |
|--------------------------|--|
| 1/4 inch | 25-70% |
| No 40 | 0-30% |
| No 200 | 0-7% |
| 3 inch | 100% |

Aggregate for the subbase shall contain no particles of rock exceeding four inches in any dimension.

- b. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay or other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

| <u>Sieve Designation</u> | <u>Percentage by Weight Passing Square Mesh Sieves</u> |
|--------------------------|--|
| 1/2 inch | 45-70% |
| 1/4 inch | 30-55% |
| No 40 | 0-20% |
| No 200 | 0-5% |
| 3 inch | 100% |

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2. Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
3. Pavement.
 - A. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than one-inch maximum.
 - B. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than $\frac{3}{4}$ inch maximum.
 - C. Street Names, Signs and Lighting. Streets that join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.
 - D. Cleanup. Following street construction, the developer or contractor shall conduct thorough clean up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
 - E. Certification of Construction. "As built" plans may be requested by the Board. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations.

11.4 Storm Water Management Design Standards.

- A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and drained ground water, through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.
 1. Where a subdivision is traversed by a stream, river, or subsurface drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. A Registered Professional Engineer shall design this stormwater management system.
 2. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
 3. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and the 25-year, 24-hour duration, frequencies, based on rainfall data for Bangor, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitable sized.
 4. The minimum pipe size for any storm drainage pipe shall be 28 inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

- B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
- C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage.
- D. Catch basins shall be installed where necessary and located at the curb line.
- E. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- F. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.
- G. Storm drainage construction standards shall be the same as M.D.O.T. standards for storm drainage construction.

11.5 Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of the land above sea level and its relation to the flood plains;
- B. The nature of soils and subsoils and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations.

ARTICLE XII – PERFORMANCE GUARANTEES

12.1 Types of Guarantees. With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers or Town Manager;
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers or Town Manager; or
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney shall determine the conditions and amount of the performance guarantees.

12.2 Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

12.3 Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount withdrawn to complete the required improvements.

12.4 Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

12.5 Letter of Credit. An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

12.6 Conditional Agreement. The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than four lots may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
- B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8.

12.7 Phasing of Development. The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street that is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

12.8 Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

12.9 Default. If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

12.10 Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 10.7 of these regulations and for the construction of the streets.

ARTICLE XIII – WAIVERS

13.1 Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical

development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations, and provided the criteria of the State Subdivision Law are met.

13.2 Where the Board makes a written finding of fact that due to a special circumstance of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety, or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

13.3 In granting waivers to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of these regulations are met.

13.4 Waivers to be shown on Final Plan. When the Board grants a waiver to any of the standards of these regulations, the final Plan shall indicate the waivers granted and the date on which they were granted.

ARTICLE XIV – APPEALS

14.1 An aggrieved party may appeal any decision of the Board under these regulations to the Town of Brooks Appeals Board within thirty (30) days.

ARTICLE XV – Interpretation of the Ordinance

15.1 The Planning Board shall be responsible to guide the applicant through the ordeals entailed in this ordinance. The Planning Board shall explain each step as they feel is sufficient.

15.2 The CEO is responsible to confront those who do not follow the standards contained in this ordinance.

15.3 Any person who decides the Planning Board or Code Enforcement Officer has made an error shall after first consulting the offended party, take concerns to the Board of Appeals. If the Board of Appeals finds that the Planning Board or CEO erred in his/her/their interpretation of the ordinance, it shall modify or reverse the action accordingly. An appeal may only be reviewed if it is made within 6 months of the offense. If there is more than one offense, the date of the first offense is the date to guide the time frame. If more than 6 months has transpired, an appeal may still be reviewed if a majority of the Appeals Board votes to accept it.

ARTICLE XVI – SEVERABILITY

16.1 The invalidity of any section of this ordinance shall not be held to invalidate any other section or provision of this ordinance.

ARTICLE XVII – AMENDMENTS TO THE ORDINANCE

17.1 The Municipal Officers or the Planning Board may initiate amendments to the ordinance.

17.2 No proposed amendments to this ordinance shall be referred to the Town Meeting until the Municipal Officers have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the Municipality at least two (2) times with the date of the first publication being at least prior to the hearing. The proposed amendment shall be adopted by a simple majority vote of the Town Meeting.

Affective Date: This ordinance shall be in affect the date it is accepted by the Town at a Special Town meeting or the Annual Town Meeting.

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Town of Brooks Waste Food Processing Ordinance

1. Title & Purpose.

This ordinance shall be known and cited as the “Town of Brooks Waste Food Processing Ordinance,” hereinafter referred to as “this Ordinance.”

The purpose of this Ordinance is to establish predictable and balanced regulations for the siting of Waste Food Processing operations within the Town of Brooks. The requirements of this Ordinance are intended to provide for the appropriate siting of Waste Food Processing operations while also avoiding potential damage to adjacent properties. This Ordinance seeks to accommodate the operational needs of residents and businesses seeking to locate a Waste Food Processing operation within the Town of Brooks, while protecting the public health, safety, and general welfare of the community.

2. Authority.

This Ordinance is adopted pursuant to the Home Rule provisions of the Maine Revised Statutes Annotated, 30-A M.R.S.A. § 3001 *et seq.*, as may be amended from time to time.

3. Applicability.

This Ordinance applies to all land areas within the boundaries of the Town of Brooks.

4. Effective Date.

The effective date of this Ordinance shall be the date of adoption by voters at a Town Meeting called for such purpose.

5. Severability.

Should a provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and this Ordinance shall be construed and enforced as if the invalid provision had not been contained herein.

6. 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 of the Town of Brooks, the more restrictive provisions shall control.

7. Location & Setback Requirements.

- a. A Waste Food Processing operation shall comply with the following location requirements:

- i. A Waste Food Processing operation shall be located entirely within the Rear Yard of any lot, and shall not be located within the Front Yard of any lot.
 - ii. A Waste Food Processing operation shall not be located on any portion of property that is within a Shoreland District or Zone of the Town of Brooks.
- b. Waste Food Processing operations shall comply with the following set back requirements:
 - i. A Waste Food Processing operation shall be set back at least ten (10) feet from the rear lot line of any lot.
 - ii. A Waste Food Processing operation shall be set back at least twenty-five (25) feet from the side lot lines of any lot.
 - iii. A Waste Food Processing operation that is conducted entirely outdoors shall be set back at least twenty five (25) feet from any residence.

8. Additional Standards for Permit.

The Planning Board shall issue a permit for the siting of a Waste Food Processing operation when the applicant demonstrates that, in addition to compliance with the standards of Section 8, the proposal meets the following standards:

- a. If the proposed use will be conducted entirely outdoors, without enclosure from a building or other structure, the use shall:
 - i. Be located on a concrete or asphalt slab;
 - ii. Be fenced or gated to prevent unauthorized access, intrusion, and disturbance from domestic and wild animals.
- b. The proposed use will be fenced, screened, or otherwise buffered to obscure view of the use from any street.

Compliance with the provisions of this Section shall be incorporated into the terms of any permit issued under this Ordinance.

9. Administration – Permit Required.

- a. Permit Required.

- i. After the Effective Date of this Ordinance no person shall site, locate, operate, or maintain a Waste Food Processing operation, unless a permit has first been obtained from the Town of Brooks Planning Board.
- ii. Within sixty (60) days of the Effective Date of this Ordinance, any person operating or maintaining an existing Waste Food Processing operation on property in the Town of Brooks shall apply to the Town of Brooks Planning Board for a permit to site, locate, and maintain such a use on the property in compliance with Sections 8 – 9 of this Ordinance. If an application is made within the time required, the use may continue pending consideration by the Planning Board. If the application is denied, the use must be terminated. If the application is granted, the use shall comply with all the provisions of this Ordinance and any permit conditions the Planning Board may impose.

b. Permit Application.

- i. Every applicant for a permit shall submit a written application to the Town of Brooks Planning Board that identifies the location of the property with a street address and tax map and lot number, the name, address and telephone number for the applicant and any co-applicants, as well as agents for the same.
- ii. Every applicant shall submit a scaled drawing of the property, identifying the property boundaries, depicting and labeling any structures on the property, and identifying the Front Yard, Rear Yard, Front Lot Line, Rear Lot Line, and Side Lot Lines of the property, and the proposed location of a Waste Food Processing operation on the lot.
- iii. All applications shall be signed by the owner or owners of the property, lessee, or other person having legal control of the property, certifying that the information in the applicant 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.
- iv. A non-refundable application fee of \$25.00, payable to the Town of Brooks, shall be submitted with each application.
- v. All applications shall be dated, and the Planning Board shall note upon each application the date and time of its receipt.

c. Application Administration.

- i. Within 35 days of the date of receiving a written application, the Planning Board shall notify the applicant in writing whether the application is complete, or, if the application is incomplete, the additional material that

is necessary to make the application complete. The Planning Board shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. Permits shall be approved if the proposed use is found to be in conformance with the purposes and provisions of this Ordinance.

- ii. The applicant shall have the burden of proving that the proposed use is in conformity with the purposes and procedures of this Ordinance.

d. Expiration of Permit.

Following the issuance of a permit, if no substantial start is made in construction or in the use of the property for a Waste Food Processing Operation within one (1) year of the date of the permit, the permit shall lapse and become void.

e. Appeals.

An appeal may be taken to the Board of Appeals by any aggrieved party from the decision of 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.

10. Exceptions.

- a. The following activities are exempt from the provisions of this Ordinance:
 - i. Waste Food Processing operations that generate less than one (1) gallon of Waste Food in any one week;
 - ii. Farms, farm operations, and agricultural composting operations, as defined by Title 17 of the Maine Revised Statutes Annotated, Section 2805, as may be amended from time to time, in which the method of operation constitutes a best management practice as determined by the State of Maine Department of Agriculture, Food and Rural Resources;
 - iii. Generally accepted agricultural practices, as defined by the State of Maine, Department of Agriculture, Food and Rural Resources.
 - iv. Processing, handling, or storage of dairy, livestock or poultry feed that consists solely of grain, hay or silage products or combinations thereof;
 - v. Storage or use of pre-packaged commercial pet or animal feed products for domestic or agricultural use.

11. Enforcement.

- a. Any violation of this Ordinance shall be deemed to be a nuisance.
- b. The Code Enforcement Officer shall enforce the provisions of this Ordinance. If, after investigation, the Code Enforcement Officer finds that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, and order the action necessary to correct it. A copy of the notice shall be submitted to the municipal officers and be maintained as a permanent record.
- c. 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 Town of Brooks. The Municipal Officers, or their 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.
- d. Any person who sites a Waste Food Processing operation in the Town of Brooks without a permit, in violation of this Ordinance, shall be subject to such fines, penalties, actions and orders as are authorized by 30-A M.R.S.A. § 4452, as the same may be amended from time to time. A fine or penalty may be imposed for each violation. Each day of violation shall constitute a separate offense with respect to each violation. In addition, such person shall pay to the Town all the Town's attorneys' fees, court costs and out-of-pocket expenses incurred by the Town in any enforcement action undertaken to correct a violation of this Ordinance.

12. Construction of Language & Definitions.

- a. Language used in this Ordinance shall be construed as follows:
 - i. In the interpretation and enforcement of this Ordinance, all words other than those specifically defined herein, shall have the meaning implied by their context in the chapter or their ordinarily accepted meanings as found in the current edition of Webster's Collegiate Dictionary.
 - ii. Words used or defined in one tense or form shall include other tenses or derivative forms.
 - iii. Words in the singular shall include the plural, and words in the plural shall include the singular.
 - iv. The masculine gender shall include the feminine, and the feminine shall include the masculine.

- v. The words "shall" and "will" are mandatory, and the word "may" is permissive.

b. The following terms shall have the following meanings:

- i. "Lot" means an area of land undivided by any street or private road, in single ownership or leasehold, with ascertainable boundaries established by deed or some other instrument of record.
- ii. "Lot Line" means a line bounding a lot which divides one lot from another or from a street or any other public or private space, as defined below:
 - 1. "Front Lot Line" means, in the case of a lot abutting only one street, the street line separating each lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line. In the case of a lot with no road frontage, the front lot line shall be considered to be the line parallel to the front of the building
 - 2. "Rear Lot Line" means that lot line which is parallel to and most distant from the front lot line of a lot. In the case of an irregular, triangular, or gore-shaped lot, a line of 20 feet in length, entirely within the lot, parallel to and at the maximum distance from the front lot line shall be considered to be the rear lot line. In the case of corner lots there shall be no rear lot lines.
 - 3. "Side Lot Line" means any lot line other than a front or rear lot line."
- iii. "Property" means the same as Lot.
- iv. "Road Frontage" means the linear distance measured along the lot line which separates the lot from a public or private road.
- v. "Street" means public and private ways such as avenues, boulevards, highways, roads and other rights-of-way consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material and constructed for or created by the repeated passage of motorized vehicles, as well as subdivision plans designated as rights-of-way or streets, except such ways as have been discontinued or abandoned.
- vi. "Waste Food" means bulk quantities of (1) household or restaurant food wastes, (2) outdated grocery or fast food store items, (3) fish scraps, or (4) animal by-products.

vii. “Waste Food Processing” means the handling, storage, or processing of one or more of the following items in bulk quantities for use as livestock, pet or animal feed or as bait for hunting purposes:

1. Household or restaurant food wastes;
2. Outdated grocery or fast food store items;
3. Fish scraps; and
4. Animal by-products

viii. “Yard” means the area of land on a lot not occupied by buildings, as defined below:

1. “Front Yard” means the open, unoccupied space on the same lot with the principal building between the front lot line and the nearest part of any building on the lot and extending to the entire width of the lot.
2. “Rear Yard” means the open, unoccupied space on the same lot with the principal building between the nearest part of any building and the rear lot line and extending the entire width of the lot.