

2017

# Town of Clinton Maine Ordinances

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**TOWN OF CLINTON  
ADULT-ONLY BUSINESSES ORDINANCE**

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# **TOWN OF CLINTON**

## **ADULT-ONLY BUSINESSES ORDINANCE**

### **Section I. Findings**

The Citizens of the Town of Clinton believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. They have observed that in many communities throughout this country the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. An ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

### **Section II. Purpose**

The regulations of this Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses, and to prevent their location in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas of the Town at large. The purpose of this Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

### **Section III. Definitions**

The following terms as used in this Ordinance and for the purpose of the Ordinance have the meanings to them below:

- A. "Adult amusement store" means an establishment having as a substantial or significant portion of its sales or stock in trade, erotic material, or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's purpose is to purvey such material.
- B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons therein.
- C. "Adult entertainment cabaret," means a public or private establishment which features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

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- D. "Adult spa," means an establishment or place primarily in the business of providing services of an erotic nature.
- E. "Sexually oriented business," means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where erotic materials and activities are displayed, depicted, described or simulated as a regular and substantial part of its operation. This includes any business which incorporates full or partial nudity, such as topless bars and topless coffee shops.
- F. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.
- G. "Specified criminal activity," means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:
- (1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;
  - (2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;
  - (3) less than (5) years have elapsed since the date of the last conviction or the date of release from confinement or probation imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.



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### **Section IV. License Required**

A person or persons wishing to operate a sexually oriented business shall obtain an annual license (a) prior to opening the person's establishment, and (b) prior to expiration of the current annual license. A license issued under this Ordinance does not eliminate the requirements of any other Ordinance in Clinton including the Site Review Ordinance.

### **Section V. Application; Investigation and Issuance of License**

**1. Application.** An applicant for sexually oriented business license shall:

- A. Complete and file an application prescribed by the Planning Board;
- B. Deposit a license fee of \$1,000 and a processing fee of \$250 in advance with the Town Clerk or the Code Enforcement Officer. The license fee will be refunded if the license is denied. The license fee is an Annual fee which is to be paid on or before the expiration date of the previous license. The amount of these fees may be amended by the Board of Selectmen from time to time.
- C. Submit the completed application to the Planning Board through the Code Enforcement Officer, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
- D. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
- E. File the release authorized by 16 M.R.S.A, Section 620(6) (Criminal History Record, Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
- F. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;
- G. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.
- H. Submit evidence of compliance with Section X of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section VI of this Ordinance.

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**2. Investigation of applicant,** officers. Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:

- A. The Code Enforcement Officer, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town Manager, and the Planning Board. The Code Enforcement Officer shall also immediately consult with the Planning Board and arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least 10 days prior to the public hearing before the Planning Board. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from the Town officials, the Code Enforcement Officer shall forward the application and other documents to the Planning Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Code Enforcement Officer and a decision shall be made within fifteen (15) business days thereafter.
- B. The Code Enforcement Officer; within fifteen days of receipt of the application, shall inspect the location or proposed location and construction drawings to determine whether the applicant's proposed plan satisfies the setback and construction requirements of this ordinance and then report findings in writing to the Planning Board. The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and State Laws as indicated in accordance with 30-A M.R.S.A. 4452.
- C. The Code Enforcement Officer with the help of the Town Police Chief, shall investigate the applicant, including the criminal history record information required under Section V (1) (E), and then report findings in writing to the Planning Board, and
- D. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with Section X and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board. The Code Enforcement Officer will also verify whether or not other permitting under local Ordinances and state laws is required in addition to verification for compliance.

**3. Issuance of license.** The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance. The license may not be transferred or assigned.

### **Section VI. Standards of Denial**

An application for a sexually oriented business license shall be denied in the following circumstances:

- A. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
- B. The applicant is an individual who is less than 18 years of age;

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- C. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the license can be issued;
- D. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- E. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- F. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
- G. The site on which the sexually oriented business is proposed is a prohibited site under Section X, or
- H. The application in any other way fails to meet the requirements of this Ordinance.

### **Section VII. Standards for Suspension; Revocation**

A sexually oriented business license may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance. Providing false or erroneous information in an application shall be a reason for revoking or suspending a permit.

### **Section VIII. Age Restriction**

No sexually oriented business may permit any person under the age of 18 years into the premises in which the sexually oriented business is located.

### **Section IX. Prominent Display of License; Price Charges and Names of Owners or Officers**

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licenses must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business unless the price is conspicuously displayed on the individual product.

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### **Section X. Prohibited Sites; Site Requirements**

1. A sexually oriented business may only be located within a Commercial or Industrial Commercial zone.
2. A sexually oriented business may not be sited within 1,000 feet of the closest part of the structure of a business which caters to the general public or 1,500 feet of the closest part of the structure of any of the following:
  - A. A church, synagogue or other house of religious worship;
  - B. A public or private elementary or secondary school;
  - C. A day care facility;
  - D. A public park or public recreational facility;
  - E. Any residence on adjacent property, excepting the owner or proprietor; the distance cited in this section shall be measured between the closest edge of the structure of the sexually oriented business and the closest edge of the structure of the use listed (A) through (E) above.
3. A sexually oriented business will be required to construct a visual barrier around the sides of the business as required by the Planning Board.
4. It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand five hundred (1,500) feet of another sexually oriented business.

### **Section XI. Signs and Exterior Layout of Sexually Oriented Businesses**

1. Sexually Oriented Businesses shall have an 8.5 inch by 11 inch sign at each entrance stating "Under 18 not admitted" or similar wording accepted by the Planning Board.
2. Sexually Oriented Businesses may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3 inches high, stating "Entrance", "Parking", "No Loitering" or other wording approved by the Planning Board.
3. Sexually Oriented Businesses shall have only one exterior identification sign.
  - A. The sign shall contain only the name of the establishment and "XXX" or the type of business as defined in Section III above.
  - B. The sign may not contain any other symbols or illustrations.

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- C. The sign must meet the approval of the Planning Board, who may require changes if they believe the proposed sign would be offensive to a significant number of Clinton residents.
  - D. The exterior dimension of the sign shall not exceed 30 square feet.
  - E. The sign may be two sided.
  - F. The sign may be unlit, internally lit, or lit with spotlights.
  - G. The lights may not blink.
  - H. The bottom of the sign may not be more than 10 feet above grade.
  - I. The top of the sign may not be more than 15 feet above grade.
- 4. No signs or symbols, except as permitted in Section XI, paragraphs 1 through 3 above, shall be visible from the exterior of the establishment.
  - 5. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board.

### **Section XII. Prohibited Activities**

- A. All acts of public indecency, as defined in 17-A M.R.S.A., Section 854, are prohibited in sexually oriented businesses.
- B. All other acts prohibited by applicable ordinances or laws.
- C. The sexually oriented business hours of operation will be allowed anytime during the hours of 8:00 am – 10:00 pm - Monday - Saturday.

### **Section XIII. Enforcement**

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section XV shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections X to XIII. The Ordinance shall be enforced by the Code Enforcement Officer any law enforcement officials having jurisdiction within the Town of Clinton. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

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## **Section XIV. Penalties**

Violation of this Ordinance shall result in a penalty of \$100.00 per day, beginning on the date a notice of violation from the Code Enforcement Officer is mailed to the Applicant at the address contained in Town records. If the violation is not remedied within ten days of notice being sent, the Code Enforcement Officer may send a second notice. Violation of this Ordinance, after sending of the second notice, shall result in a penalty of \$500.00 per day. Remedying a violation does not prohibit the Code Enforcement Officer from suspending the license as provided in Section VII, "Standards for Suspension, Revocation".

The amount of these penalty fees may be amended by the Board of Selectmen from time to time.

## **Section XV. Severability**

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

## **Section XVI. Conflict 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 apply.

## **Section XVII. Appeals**

An appeal from any final licensing, denial, suspension or revocation decision may be taken by an aggrieved party to the Board of Appeals within 30 days of the decision. The decision of the Board of Appeals may be taken to Superior Court in accordance with the provisions of Rule 80K of the Maine Rules of Civil Procedure. Service of Process shall be served on the Town Clerk. The Town shall file its responsive pleadings and record of proceedings with the Court not later than ten (10) business days after service of the summons and complaint. Additionally, the Town shall submit its responsive brief within fourteen (14) days after receipt of the plaintiff's brief, and shall move for an expedited hearing. All enforcement action, if any, shall be stayed during the pendency of the Rule 80K appeal.

## **Section XVIII. Effective Date**

This Ordinance shall become effective immediately after approval by the voters of the Town of Clinton.

## **Town of Clinton Curfew Ordinance**

Purpose: This Ordinance is required to control and manage the activities and behaviors of youth in the Main Street area of the Town of Clinton. The in town business district has particularly been subjected to the unruly and disorderly behaviors of youthful persons who loiter or congregate on or near the public ways and sidewalks, unsupervised by a parent or guardian. During business hours, such behaviors have significantly interfered with and adversely impacted the in town business and their customers; ad these businesses have sustained continuing vandalism and other property damage during the nighttime hours. This Ordinance is enacted, pursuant to Title 30-A M.R.S.A. §3001 and §3009(1)(A) to regulate the use of public ways and sidewalks within the Town of Clinton.

### **1. Curfew-Civil Violation:**

It shall be unlawful for any child under the age of eighteen (18) years to stand, walk, wander, stroll or set in a motor vehicle about the streets of the Town of Clinton between the hours of 10:00 PM – 5:00 AM, unless accompanied by a parent, guardian or custodian, or if the minor is on an emergency errand, or specific business or activity directed or permitted by the parent, guardian or custodian, or when the presence of the minor is in connection with or required by some legitimate employment or occupation.

### **2. Parents Responsibility:**

It shall be unlawful for the parent, guardian, or custodian of any minor to suffer or permit, or by negligent or inefficient control allow such minor to be in a public place with the hours set forth in section #1 of this Ordinance. However, this provision does not apply, if a minor is accompanied by a parent, guardian, or custodian or if the minor is on an emergency errand or specific business or activity directed or permitted by the parent, guardian or custodian, or if the parent, guardian or custodian has reported the minor to police as a missing person.

### **3. Enforcement:**

Any law enforcement officer hereby authorized to charge, by issuance of the Uniform Summons and Complaint pursuant to Title 17-A M.R.S.A. §17. It is encouraged but not required that a written warning be issued for a first offense., It is required that if a summons or warning is issued the parent, guardian, or custodian of the minor be notified within 48 hours of the violation.

### **4. Penalties:**

Violation of this Ordinance is punishable by a fine of \$25.00 for first offense, \$50.00 for second offense and \$100 for third and all subsequent offenses. This applies to violations of either Section #1 or Section #2.

# APPENDIX B

## TOWN OF CLINTON DOG ORDINANCE



# **TOWN OF CLINTON**

## **DOG CONTROL ORDINANCE**

ADOPTED NOVEMBER 7, 2000

REVISED JUNE 8, 2004

### SECTION 1. PURPOSE:

This ordinance is adopted in the exercise of municipal home rule powers under the Maine Constitution and 30-A M.R.S.A. Section 3001, and as expressly authorized under 7 M.R.S.A. SECTION 3950. The purpose of the ordinance is to regulate dogs in the Town of Clinton, and to specifically comply with the provisions of 7 M.R.S.A. Chapters 725 and 727 by controlling dangerous dogs, dogs running at large, barking dogs, and dogs that pose a threat to the health, safety, comfort, convenience, and general welfare of the residents of the Town. It is the intent of this ordinance, without unreasonably restricting owners and their dogs in their normal activities, to hold owners responsible for the unlawful conduct of their dogs.

### SECTION 2. DEFINITIONS:

As used in this ordinance, unless the text clearly otherwise indicates, the following words and phrases have the following meanings:

- A. "Attack," "Attacks," and "Attacking" mean an unprovoked actual biting or an assault by a dog that occurs without provocation by a showing of the teeth, growling or barking, or any combination of these acts, from which a person reasonably receives an impression of impending or imminent physical harm by the dog to himself or herself, to others, or to a domestic pet or farm animal.
- B. "Dog" has the meaning provided under 7 M.R.S.A. Section 3907 (12-C) and includes dogs of either gender.
- C. "Owner" means any person or persons, firm, association, corporation, or other legal entity, owning, keeping, harboring, in possession of or having the control of a dog, and includes the parents(s) or guardian(s) of a minor who owns, keeps, harbors, is in possession of or has control of a dog.

- D. "Dangerous Dog" means the following, regardless of the location of the dog at the relevant time:
- (1) A dog that attacks a person regardless of whether it causes physical harm to the person, provided at the time of the attack the person is not trespassing with criminal intent on the owner's premises.
  - (2) A dog that attacks a domestic pet or farm animal and causes harm to the domestic pet or farm animal.
  - (3) A dog that causes serious injury or death to an animal other than a domestic pet or farm animal.
- E. "Running at Large" means a dog being off the premises of the dog's owner and not under the control of an owner of the dog who is physically capable of controlling and restraining the dog by a leash, cord, chain, or "at heel" command, or otherwise restraining the dog by voice or other command control to which the dog is obedient.

### SECTION 3. DANGEROUS DOGS

- A. Notice to Owner. An owner who is given notice (which need not be in writing) by the Town's Animal Control Officer, any law enforcement officer, or any state official that the owner's dog has bitten or is reasonably believed to have bitten any person, or has or is reasonably believed to have in any way injured any person so as to cause an abrasion of the skin to that person, shall not without further written authorization by an officer or official, sell, give, or otherwise convey the ownership or possession of that dog, or remove, suffer or permit that dog to be moved beyond the boundaries of the Town., except to or under the care of a licensed veterinarian, or of an Animal Control Officer, or a law enforcement officer. An owner receiving such notice shall immediately place the dog under confinement for a period of at least ten (10) days and shall promptly obey all rabies detection and control directions of an Animal Control Officer, licensed veterinarian, law enforcement officer or state official concerning that dog. An owner receiving such notice shall comply with all applicable regulations of the Maine Commissioner of Agriculture and the Maine Commissioner of Human Services and their authorized officials) employees, and agents in matters of rabies detection and control.

Special Restraint of Dangerous Dogs. An owner of a dog that has been determined by a court to be a dangerous dog shall ensure that the dog is restricted at all times to the premises of that owner, except when being transported by a secure motor vehicle to a veterinarian or to some other premises of that owner, or to the custody of an animal control officer or law enforcement officer. The owner of such a dog will ensure that the dog, when out of doors on the owner's premises, is either contained within a secure enclosure or is fastened with a secure latch to a reinforced chain restraint, the length of which is such that the dog may in no event approach any closer than three (3) feet to any mail receptacle or entrance or exit to a house or other building, end or edge of a driveway, walkway, stoop or stairs leading to an entrance, edge of a lawn, property boundary or public sidewalk, or home fill pipe or utility meter or point on the ground generally below any other wiring or piping. The owner shall ensure that the restraint is maintained and secure at all times the dog is out of doors on the owner's premises and not in a secure, fenced-in enclosure.

#### SECTION 4. DOGS CONSTITUTING A NUISANCE

- A. Barking Dogs. No owner of a dog shall suffer or permit that dog by loud, frequent, or habitual barking, howling, or yelping to disturb the peace of another person. Upon first violation the owner of the dog shall be issued a written warning. Any further incidents shall be deemed a violation of this ordinance and the owner will be issued a civil uniform summons and complaint.
- B. Chasing of Persons or Vehicles. It shall be unlawful for an owner or keeper of a dog to allow such dog to run after or chase persons, bicycles, automobile or other motor vehicles.
- C. Impoundment of Nuisance Dogs. Any dogs constituting an nuisance as set out in either section above, may be impounded by any member of the humane shelter, a law enforcement officer, or the Town's Animal Control Officer if the owner cannot be reasonably located. The owner of the dog shall pay the full cost incurred for the board and shelter of the animal.

## SECTION 5. RUNNING AT LARGE

### A. General Prohibition.

No owner of a dog shall cause or permit that dog to run at large within the Town. A dog, while in or on the way or place other than a public way or other municipal property, shall be deemed to be under restraint within the meaning of this ordinance if it is otherwise controlled by a leash, cord, or chain, or is "at heel" or otherwise under the voice or other command control of a person and obedient to that persons' command. Nothing in this ordinance shall be held to require the leashing or restraint of any dog other than a dangerous dog while on the owners premises.

An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property, shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

### B. Special Restrictions Governing Dogs on Municipal Property

An owner of a dog shall ensure that the dog, when on any public way and on all municipal property, including but not limited to the Town's parks and public ways, municipal sidewalks and recreational and athletic fields, is on a leash or tether at all times and is accompanied by an owner who is physically or by effective voice or other command able to control and restrain the dog from an attack and who tends the leash or tether at all times while the dog is on municipal property, and who does not permit the dog to run at large on municipal property. An owner accompanying a dog on municipal property other than an- owner with visual acuity accompanying a seeing eye dog, so-called, on municipal property shall collect any feces or vomitus deposited by the dog and dispose of the same in a sanitary, lawful manner.

### C. Identification.

C. An owner shall ensure that the owner's dog, if three (3) months old or older and out of doors, whether on or off the premises of the owner, unless confined within a secure enclosure or container, wears a collar or harness to which there must be securely attached an identification tag containing information linking the dog to its owner, such as the owner's name, address (if any), telephone number (if any), or vaccination tag number. Alternatively, any owner may provide for identification by having the dog wear such a collar that is at all times clearly and legibly embroidered with the information required by this section, or by having the dog wear such an embroidered collar which, in combination with one or more security tags, shows the required information.

## SECTION 6. PENALTY

For an initial violation of this ordinance by an owner, the owner shall be ordered to pay a civil penalty of not less than fifty dollars (\$50.00) but not more than two hundred and fifty dollars (\$250.00). In determining the amount to be forfeited the court shall consider any evidence in mitigation, extenuation, or aggravation it considers pertinent to the offense, including but not limited to the civility and degree of cooperation exhibited by the owner. [For each succeeding violation, the penalty shall be increased by a minimum of fifty dollars (\$50.00) above the penalty for the immediately preceding violation). All penalties awarded and all sums recovered shall accrue to benefit the Town of Clinton. An owner found to have violated this ordinance shall pay all fees, court costs and the Town's reasonable attorney's fees, if any.

For purposes of illustration of the penalty provision only, if an owner were found in a single court proceeding to have committed four violations, and if the penalty for the initial violation were set at \$100.00, then the penalties for the succeeding violations would be \$150.00, \$200.00, and \$250.00, for a total of \$700.00 in penalties. Similarly, if there occurred thereafter a second enforcement action for a new single violation against the same owner and there was a finding of a violation, then the penalty for the violation would be \$300.00.

## SECTION 7. PROCEDURE ON VIOLATION

Any law enforcement officer authorized by the municipal officers on complaint of any person on his or her own initiative, may initiate prosecution for violation of this ordinance by filing a complaint with the Maine District Court and serving a summons and a copy of

the complaint upon the owner. Any law enforcement officer certified by the Maine Criminal Justice Academy may represent the Town in the District Court in the prosecution of alleged violations of this ordinance. In the alternative, the municipal officers may engage and appoint counsel to prosecute the alleged violations of the ordinance and violations of the state law under 7 M.R.S.A. Part 9.

- A. Order of the Court. If upon hearing, the court determines that the ordinance has been violated, the court shall impose an appropriate penalty. If the court determines that a dog is a dangerous dog, the court may order the owner to muzzle the dog, to restrain the dog, and to confine the dog to the owner's premises. However, if the court finds that the dog has killed, maimed, or inflicted more than *de minimus* bodily injury upon a person, or upon a domestic pet or farm animal, or if the court determines that the dog has a history of attacks, then the court may order the dog to be euthanized at the owner's expense.
- B. Failure to Abide by a Court Order.

An owner's failure to comply with an order issued pursuant to paragraph A immediately above constitutes a violation of this ordinance and may be punishable upon a new summons or as contempt following issuance of a show cause order on affidavit of a law enforcement officer. If an order of euthanasia is not complied with by the time set by the court, the court may, upon application by any law enforcement officer or other person and" upon notice to the owner, issue a warrant to any law enforcement officer or constable in the municipality where the dog is found to destroy the dog and make return of the warrant to the court within 14 days from the date of the warrant. The owner shall pay all costs of any supplementary proceedings and all reasonable costs for seizure and euthanasia of the dog. A failure to pay such costs by any time stated in the order of the court for making such a payment constitutes a distinct violation of the ordinance, which may also be punished on proceedings for contempt after issuance of a show cause order.

- C. Complaint for Dogs Presenting" Immediate Threat to the Public.

After filing a complaint in District Court and before the hearing, the dog shall be subject to muzzling, restraint, or confinement upon its owner's premises upon order of the law enforcement officer who filed the complaint to the owner if that officer believes that the dog poses immediate threat to the public. The officer may prescribe the degree and means of restraint or confinement. Failure to comply

shall constitute a distinct violation of the ordinance. Upon failure to comply and after notice to the owner, the officer may apply to the District Court for an order of authorization to take possession of the dog that poses immediate threat to the public and turn it over to the care of a suitable person or organization at the owner's expense. The court, in its final order, shall include an order to the owner to pay such expense in a stated amount.

Nothing in this ordinance is intended to bar or limit the right of individuals to make written complaint concerning dangerous dogs pursuant to state law or bar or limit any authorized law enforcement officer from proceeding to act upon such a written complaint in accordance with state law.

#### SECTION 8. EFFECTIVE DATE

This ordinance shall take effect upon passage.

This ordinance shall supersede all previous dog ordinances, which are hereby repealed from and after the effective date of adoption of this ordinance.

#### SECTION 9. SEVERABILITY

Should any portion of this ordinance be found invalid for any reason by a court of competent jurisdiction, then all portions not found invalid shall remain unaffected and continue in full force and effect.

# APPENDIX A

## TOWN OF CLINTON ENHANCED 911 ORDINANCE



## Town of Clinton Enhanced 911 Ordinance

March 11, 1997

Rev. June 16, 1997

### **Section 1. Purpose**

The purpose of this ordinance is to enhance the easy and rapid location of properties by law enforcement, fire, rescue, and emergency medical services personnel in the town of Clinton.

### **Section 2. Authority**

This ordinance is adopted pursuant to and consistent with the Municipal Home Rule Powers as provided for in Article VIII, Part 2, Section 1 of the Constitution of the State of Maine and Title 30-A MRS.A. Section 3001.

### **Section 3. Administration**

This ordinance shall be administered by the Clinton Board of Selectman/CEO Officer, who are authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in sections 4 and 5. The Clinton Board of Selectman/CEO Officer shall also be responsible for maintaining the following official records of this ordinance:

- a. A Clinton map for official use showing road names and numbers.
- b. An alphabetical list of all property owners as identified by current assessment records, by the last name, showing the assigned numbers.
- c. An alphabetical list of all roads with property owners listed in order of their assigned numbers.

### **Section 4. Naming System**

All roads that serve two or more properties shall be named regardless of whether the ownership is public or private. A "road" refers to any highway, road, street, avenue, lane, private way, or similar paved, gravel, or dirt thoroughfare. "Property" refers to any property on which a more or less permanent structure has been erected or could be placed. A road name assigned by the town of Clinton shall not constitute or imply acceptance of the road as a public way.

The following criteria shall govern the naming system:

- a. No two roads shall be given the same name (e.g., no Pine Road and Pine Lane).
- b. No two roads should have similar-sounding names (e.g., Beech Street and Peach Street).

## Town of Clinton Enhanced 911 Ordinance

c. Each road shall have the same name throughout its entire length. May change at a junction, “T” in road etc.

### **Section 5. Numbering System**

Numbers shall be assigned to every 50 (fifty) feet along both sides of the road, with even numbers appearing on the left side of the road and odd numbers appearing on the right side of the road, determined by the number origin. (The frontage interval may vary in more densely populated areas, and it should be so indicated where that particular interval applies.).

The following criteria shall govern the numbering system:

- a. All number origins should begin from the designated center of Clinton or that end of the road closest to the designated center. (The numbering origin does not have to be the town center but could be a border with another community. For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.
- c. Every structure with more than one principal use or occupancy shall have a separate number for each use or occupancy. (i.e., duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt 2).

### **Section 6. Compliance**

All owners of structures shall, by the date stipulated in Section 8, display and maintain in a conspicuous place on said structure, the assigned numbers in the following manner:

- a. Number on the Structure or Residence. Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door entry.
- b. Number on the Street Line. Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall,. The mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.
- c. Size and Color of Number. Numbers shall be displayed in a color and size approved for use by the Clinton Board of Selectman/CEO Officer and shall be located to be visible from the road.

## Town of Clinton Enhanced 911 Ordinance

d. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.

e. Interior location. All residents and other occupants are urged to post the assigned number and road name next to their telephone for emergency reference.

### **Section 7. New Construction and Subdivisions**

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

a. New Construction. Wherever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Clinton CEO. This shall be done at the time of the issuance of the building permit.

b. New subdivisions. Any prospective subdivider shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Clinton CEO, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark, on the plan, lines or dots, in the center of the street every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

c. If a survey is required the owner shall bear the cost.

d. Any prospective new subdivisions requiring street signs, shall purchase necessary signs through the local Town Office or any other sign distributors approved by the CEO.

### **Section 8. Effective Date**

This ordinance shall become effective as of town meeting 1997. It shall be the duty of the Clinton Board of Selectman to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before effective date of its issue. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, within 90 (ninety) days following notification. On new structures, numbering will be installed when structure is first used or occupied.

### **Section 9. Enforcement**

The Clinton Board of Selectman/CEO Officer shall see that all homes are marked properly after 90 (ninety) days of getting their proper street names and numbers.

**Section 10. Severability and Conflict with other Ordinances**

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

## TOWN OF CLINTON

### ORDINANCE TO REGULATE USE OF EXPLODING TARGETS

**PURPOSE:** To promote the public safety and welfare of the Inhabitants of the Town of Clinton by regulating the use of exploding targets within the Town.

**DEFINITIONS:**

1. Exploding Target: Any device which explodes upon impact by a projectile fired from a firearm such as, but not limited to, binary exploding targets (made of separately packaged “fuel” and “oxidizer” that must be mixed to make the explosive device “live” (such as the targets marketed under the name of Tannerite, Star and Sure-shot).
2. Detonate: To explode with violence and/or noise.

**ACTIONS PROHIBITED:**

1. It shall be unlawful for any person within the limits of the Town of Clinton to detonate an Exploding Target (as defined above), or for the owner of the property on which the Exploding Target is located, to allow any person to detonate an Exploding Target , within 1000 yards of a dwelling or any other occupied building or structure without the prior written consent of the owner(s) or occupant(s) of such dwelling(s) or occupied building or structure.
2. It shall be unlawful for any person within the limits of the Town of Clinton, under any circumstances, to detonate an Exploding Target containing more than one half pound of explosive mixture.

**PENALTY:**

1. A civil penalty in the amount of \$500.00 (five hundred dollars) shall be imposed for a first violation of the prohibition set forth in this ordinance, and a civil penalty in the amount of \$1,000.00 (one thousand dollars) shall be imposed for any subsequent violation of the prohibition set forth in this ordinance.
2. Each detonation of an Exploding Target may be considered a separate violation even if the detonations are all part of one target session. In the event a session includes a person’s first violation, the civil penalty for any subsequent violation in that session shall also be in the amount of \$500.00 (five hundred dollars).
3. In the event an action in District Court is authorized to enforce this ordinance, and the Town of Clinton is the prevailing party, the violator shall also be responsible for the attorney fees and costs incurred by the Town in bringing such action.

**ENFORCEMENT:** The Code Enforcement Officer, or any law enforcement officer, may enforce this Ordinance. The municipal officers may also authorize the Code Enforcement Officer, or any municipal official, to institute any and all actions and proceedings, either legal or equitable (including injunctions) in District Court to enforce the provisions of this ordinance; and to take whatever other actions are necessary to collect any judgment(s).

**EFFECTIVE DATE:** This Ordinance shall be effective immediately upon adoption by the legislative body of the Town of Clinton, Maine.

**FLOODPLAIN MANAGEMENT ORDINANCE**

**FOR THE**

**TOWN OF CLINTON, MAINE**

---

ENACTED: June 14, 2011  
Date

EFFECTIVE: June 15, 2011  
Date

CERTIFIED BY: Pamela M Violette  
Signature

CERTIFIED BY: Pamela M Violette  
Print Name

Town Clerk  
Title

Affix Seal

# **FLOODPLAIN MANAGEMENT ORDINANCE**

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## **ARTICLE I - PURPOSE AND ESTABLISHMENT**

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

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

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

9, 17, 36, 38, 39, 44, 62, 63, 64, 182, 201, 202

derived from the county wide digital flood insurance rate map entitled "Digital Flood Insurance Rate Map, Kennebec County," are hereby adopted by reference and declared to be a part of this Ordinance.

## **ARTICLE II - PERMIT REQUIRED**

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

## **ARTICLE III - APPLICATION FOR PERMIT**

The application for a Flood Hazard Development Permit shall be submitted to the Planning Board and shall include:

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



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

[Items H-K.2 apply only to new construction and substantial improvements.]

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

- 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
  - a. in Zones AE, from data contained in the "Flood Insurance Study- Kennebec County," as described in Article I; or,
  - b. in Zone A:
    - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
    - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
    - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
- 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
- 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
- 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;

- K. The following certifications as required in Article VI by a registered professional engineer or architect:
1. a Floodproofing Certificate (FEMA Form 81-65, 03/09, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;
  2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
  3. a certified statement that bridges will meet the standards of Article VI.M.;
  4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

#### **ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE**

A non-refundable application fee of \$50 shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

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

#### **ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS**

The Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
  1. the base flood and floodway data contained in the "Flood Insurance Study – Kennebec County, Maine," as described in Article I;
  2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to

Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,

3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
  - D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1344;
  - E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Floodplain Management Program in the State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
  - F. If the application satisfies the requirements of this Ordinance, approve the issuance of one of the following Flood Hazard Development Permits based on the type of development:
    1. A two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built", for verifying compliance with the elevation requirements of Article VI, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
    2. A Flood Hazard Development Permit for Floodproofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the floodproofing standards of Article VI.G.1.a.,b., and c. The application for this permit shall include a Floodproofing Certificate signed by a registered professional engineer or architect; or,
    3. A Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not limited to: accessory structures as provided for in Article VI.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.
  - G. Maintain, as a permanent record, copies of all Flood Hazard Development Permit Applications, corresponding Permits issued, and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates, Floodproofing Certificates, Certificates of Compliance and certifications of design standards required under the provisions of Articles III, VI, and VII of this Ordinance.

## ARTICLE VI - DEVELOPMENT STANDARDS

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

**A. All Development** - All development shall:

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

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

**C. Sanitary Sewage Systems** - All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.

**D. On Site Waste Disposal Systems** - On site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.

**E. Watercourse Carrying Capacity** - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.

**F. Residential** - New construction or substantial improvement of any residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

**G. Non Residential** - New construction or substantial improvement of any non-residential structure located within:

1. Zones AE shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
  - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;



- b. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - c. be certified by a registered professional engineer or architect that the floodproofing design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III.K. and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D., or
- a. together with attendant utility and sanitary facilities meet the floodproofing standards of Article VI.G.1.

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

1. Zones AE shall:

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

2. Zone A shall:

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

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

1. Zones A and AE shall either:

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

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

1. be 500 square feet or less and have a value less than \$3000;
2. have unfinished interiors and not be used for human habitation;
3. have hydraulic openings, as specified in Article VI.L.2., in at least two different walls of the accessory structure;
4. be located outside the floodway;
5. when possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
6. have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.

**K. Floodways** -

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

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones AE and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

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

- 1. Enclosed areas are not "basements" as defined in Article XIII;
- 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
  - a. be engineered and certified by a registered professional engineer or architect; or,
  - b. meet or exceed the following minimum criteria:
    - (1) a minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area;
    - (2) the bottom of all openings shall be below the base flood elevation and no higher than one foot above the lowest grade; and,
    - (3) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;
- 3. The enclosed area shall not be used for human habitation; and,
- 4. The enclosed areas are usable solely for building access, parking of vehicles, or storage.

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

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

2. a registered professional engineer shall certify that:

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

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

1. Zones AE and A shall:

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

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

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

## ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.



C. Within 10 working days, the Code Enforcement Officer shall:

1. review the Elevation Certificate and the applicant's written notification; and,
2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## **ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS**

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## **ARTICLE IX - APPEALS AND VARIANCES**

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  1. a showing of good and sufficient cause; and,

2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. that the granting of a variance will not alter the essential character of the locality; and,
    - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief, and the Board of Appeals may impose such conditions to a variance as it deems necessary.
- D. Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
1. other criteria of Article IX and Article VI.K. are met; and,
  2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
1. the development meets the criteria of Article IX, paragraphs A. through D. above; and,
  2. the proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- F. Any applicant who meets the criteria of Article IX, paragraphs A. through E. shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. the issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. such construction below the base flood level increases risks to life and property; and,

3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a floodplain.

#### **G. Appeal Procedure for Administrative and Variance Appeals**

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Planning Board a report of all variance actions, including justification for the granting of the variance and an authorization for the 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 MRSA § 4452.
- B. The penalties contained in Title 30-A MRSA § 4452 shall apply to any violation of this Ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, may submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
  1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation, or ordinance;

3. a clear statement that the public body making the declaration has authority to do so and a citation to that authority;
4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## **ARTICLE XI - VALIDITY AND SEVERABILITY**

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

## **ARTICLE XII - CONFLICT WITH OTHER ORDINANCES**

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

## **ARTICLE XIII - DEFINITIONS**

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

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

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

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

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

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

**Building** - see **Structure**.

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

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



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

**Elevated Building** - means a non-basement building

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

In the case of Zones AE or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

**Elevation Certificate** - An official form (FEMA Form 81-31, 03/09, as amended) that:

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

**Flood or Flooding** - means:

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

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

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

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

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

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

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

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

**Floodway** - see **Regulatory Floodway**.

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

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

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

**Historic Structure** - means any structure that is:

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

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

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

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

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

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

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

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

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

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

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

**Recreational Vehicle** - means a vehicle which is:

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

**Regulatory Floodway** -

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

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

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

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

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

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



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

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

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

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

#### **ARTICLE XIV - ABROGATION**

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

60.3 (d) Rev. 4/09

Prepared by SPO/jpp 12/27/2010

# TOWN ORDINANCES

## CLINTON, MAINE

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**ARCHIVED COPY 1 of 1**

LAST REVISED June 13, 2017

# LAND USE ORDINANCES

## TOWN OF CLINTON

PREPARED BY  
COMPREHENSIVE PLAN  
IMPLEMENTATION COMMITTEE

ASSISTED BY: MAINE TOMORROW

Enacted June 13, 1992

Revised	06/12/1993	06/21/1994	06/26/1995
	06/25/1996	06/19/1999	08/27/1999
	11/07/2000	06/12/2001	06/10/2003
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	06/12/2012	11/04/2014	06/13/2017

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Adopted 06/12/2012	

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## SECTION 1. GENERAL

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### A. TITLE

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

### B. AUTHORITY

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A, MRSA Section 3001 (Home Rule), and the State's growth management law, Title 30-A, MRSA, Sections 4311 et.seq.

### C. PURPOSES

The purpose of this Ordinance is to implement the provisions of the Town's Comprehensive Plan and to promote the health, safety, and general welfare of the residents of the community.

### D. APPLICABILITY

The provisions of this Ordinance shall govern all land and all structures within the boundaries of the Town of Clinton, exclusive of the land and water area subject to the town's Shoreland Zoning Ordinance.

### E. 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's regulation or statute, the more restrictive provision shall control.

This Ordinance supersedes and replaces the Clinton Site Plan Review Ordinance and Clinton Land Use Ordinance effective 3/11/88.

### F. VALIDITY AND SEVERABILITY

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

### G. EFFECTIVE DATE

The effective date of this Ordinance shall be the date of the adoption by vote at Town Meeting.

### H. AMENDMENTS

This Ordinance may be amended by majority vote at Town Meeting.

## SECTION 2 NON-CONFORMANCE

### A. PURPOSE

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

### B. GENERAL REQUIREMENTS

1. **Transfer of Ownership**: Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
2. **Repair and Maintenance**: This Ordinance allows, without a permit pursuant to this Ordinance, the normal upkeep and maintenance of non-conforming uses and structures.

### 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, if such addition or expansion does not increase the non-conformity of the structure with respect to minimum yard dimensions, maximum lot coverage, or flood plain and wetlands setbacks. Structures shall not be enlarged in a manner that violates or worsens the standard relative to minimum lot area per dwelling-unit (e.g., expansion of a single-family dwelling on a non-conforming lot to create a multi-family dwelling). For purposes of this section, the installation or construction of accessory structures, such as garage or shed outbuildings, shall be deemed an expansion or addition of a non-conforming structure.
2. **Relocation**: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback or other dimensional requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules or that a new system can be installed in compliance with the law and said Rules.

In determining whether the building relocation meets the setback or other dimensional requirements to the greatest practical extent, the Planning Board shall base its decision on the size of the lot, the slope of the land, the potential for soil erosion, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.



3. **Reconstruction or "Replacement":** Any non-conforming structure may be reconstructed or replaced provided that a permit is obtained from the permitting authority within (1) one year from the date of the event or occurrence causing the need to replace or reconstruct such structure; and, provided that such reconstruction or replacement is in compliance with the setback or other dimensional requirements to the greatest practical extent as determined by the permitting authority; and, provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State Of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules.

#### **D. NON-CONFORMING USES**

1. **Expansions:** An existing non-conforming use may be expanded, after obtaining a review permit from the permitting authority. The permitting authority may approve an expansion of a non-conforming use unless it is found that the plan does not meet the intent of one or more of the criteria standards set forth Section 5(G.).
2. **Change of Use:** An existing non-conforming use may, after obtaining a site plan review permit from the permitting authority, be changed to another non-conforming use. The permitting authority shall approve a change of use unless it is found that the proposed use is not "equally or more appropriate to the district than the existing non-conforming use; and that the proposed use will probably have no greater adverse impact on adjacent properties than the former existing non-conforming use.

The determination of appropriateness and adverse impact shall be based upon the probable changes in the factors set forth in the criteria and standards of Section 5(G.). The performance standards of this Ordinance shall apply to such applications to establish new non-conforming uses. A permitted or conforming use shall not be changed to create a non-conforming use.

3. **Discontinuance:** A non-conforming use that has been discontinued or abandoned for one (1) or more years shall not be resumed and such non-conforming use shall be deemed extinguished. The removal or demolition of a non-conforming structure, for whatever reason, shall not constitute an abandonment of a non-conforming structure or use, provided that the required permit for such replacement structure is obtained from the permitting authority within one (1) year from the date of removal of such non-conforming structure.
4. **Supersession:** Where a non-conforming use is superseded by a permitted use, the property shall thereafter conform to the permitted uses, and such non-conforming use shall not thereafter be resumed.

## E. NON-CONFORMING LOTS

1. **Non-conforming Lots:** A vacant, non-conforming lot of record legally existing as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot size and frontage can be met. Variances relating to setback or other requirements not involving lot size or frontage shall be obtained by action of the Board of Appeals. If more than one residential dwelling unit or other use is built, located or created on a non-conforming lot of record, the minimum lot size requirement of the District in which it is located shall be met for each residential dwelling unit, and the frontage and all setback requirements of the District shall be met.
2. **Contiguous Built Lots:** If two or more contiguous lots or parcels are in the same ownership of record at the time of adoption or amendment of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that all such lots meet the requirements of the Subsurface Waste Disposal Rules when such lots are divided, each lot thus created must conform to the dimensional requirements of this Ordinance, to the greatest practicable extent.
3. **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in the same ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.
4. **Single Lot with Multiple Principal Structures - Division:** 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 all such lots meet the requirements of the State Subsurface Wastewater Disposal Rules. Approval by the permitting authority, by issuance or a permit, shall be required prior to the creation of a non-conforming lot through the division of a lot of record with multiple, principal structures or uses thereon. The permitting authority shall issue the required permit upon its findings that each lot created by the division conforms to the greatest practicable extent, to the setback and dimensional requirements of this Ordinance, other than lot area.

5. **“NON CONFORMING LOTS” AS NOTED ENACTED JUNE 13, 1992:** If two or more lots with contiguous frontage on a right-of-way and in the same ownership are of record on the effective date of this Ordinance Amendment, pursuant to a final subdivision plan duly approved by the Town or Clinton Planning Board, then the said lots shall be considered separate and distinct parcels for the purposes of this Ordinance and shall be exempt from the dimensional requirements imposed by Section 2.E (3.) of this Ordinance with respect to Non-Conforming lots.

#### **F. VESTED RIGHTS**

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

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## SECTION 3. LAND USE DISTRICT REQUIREMENTS

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### A. PURPOSE

The purpose of these district requirements are:

1. To allow the future growth to occur in designated portions of the community and to restrict growth in other areas:
2. To provide for a separation of land uses that might otherwise be incompatible:
3. To protect the natural resources of the community from degradation: and
4. To provide for an orderly future growth pattern of the community.

### B. BOUNDARIES

The location and boundaries of the above districts are established as shown on the "Town of Clinton Zoning Map" and are part of the Ordinance. Revised 1993. Mylar. App. 6-25-96.

Unless otherwise set forth in the official Town of Clinton Zoning Map, district boundary lines are property lines, the center lines of roads, streets, and rights of way. Where uncertainty exists as to the exact location of the district boundary lines, the Board of Appeals shall be the final authority as to location.

Exclusive of the 250-foot Shoreland Zone, where a Land Use District Boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by applicable to the less restricted portion of the lot may be extended not more than 100 feet into the more restricted portion of the lot.

### C. LAND USES

Enacted June 13, 1992

The land uses permitted in each district, in conformance with the Performance Standards of this Ordinance, are shown in the following table. If a given area or lot of land is located within the wellhead protection district, then the land use restrictions set forth in section 3A of this ordinance "Wellhead Protection District Requirements," will supersede and control over the following table of land uses for all land use zones. Any use of land situated in the Wellhead Protection District not specifically indicated by Section 3A, Wellhead Protection District Requirements, is prohibited.



USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
<b>RESIDENTIAL</b>						
Accessory Structure	Y	Y	Y	Y	Y	Y*
Cluster Development	N	N	Y*	Y	Y	N
Congregate Housing	Y	N	Y	Y	N	N
Duplex, 2 Family Dwelling	Y	N	Y	Y	Y	N
Home Occupation	Y	Y	Y	Y	Y	N
Manufacture Housing (Certified)	Y	Y	Y	Y	Y	Y*
Mobile Home Park	N	N	N	Y*	N	N
Multi-family Dwelling	Y*	N	Y*	Y*	N	N
Single-family Dwelling	Y	Y	Y	Y	Y	Y*
<b>COMMERCIAL</b>						
Accessory Structures	Y	Y	Y*	N	Y*	N
Amusement Facility	Y*	Y*	N	N	Y*	N
Automobile Graveyard, Junkyard	N	Y*	N	N	Y*	N
Automobile Repair, Body Shop, Sales, Car Wash	Y	Y	N	N	Y1*	N

\*1 Only an Automobile Repair Shop or a Body Shop of two (2) or less bays and with two (2) or less mechanics/body repairmen will be allowed in the Rural Zone. No Automobile Sales or Car Washes shall be permitted in the Rural Zone

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
ppBed and Breakfast	Y	Y	N	Y	Y	N
Boarding, Lodging	Y	Y*	Y	Y*	Y*	N
Boat Building, Repair, Marina	Y*	Y	Y*	N	Y*	N
Building Materials, Retail Sales	Y	Y	N	N	Y*	N
Commercial School	Y*	Y	Y*	N	Y*	N
Firewood Processing	N	Y*	N	N	Y*	N
Fisheries Processing, Storage	N	Y*	N	N	N	N
Gasoline Service Station	Y	Y*	N	N	Y*	N
Hotel/Motel	Y	Y*	N	N	Y*	N
Indoor Theater	Y	N	Y*	N	N	N
Kennel, Stable, Veterinary Hospital	Y*	Y*	N	N	Y*	N
Mobile/Modular Home Sales	Y	Y*	N	Y*	Y*	N
Neighborhood Convenience Store	Y	Y*	Y*	N	Y*	N
Offices; Business, Professional, Medical	Y	Y*	Y*	N	N	N

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
Publishing, Printing	Y	Y	N	N	Y	N
Radio, Television Tower	N	Y*	N	N	Y*	N
Recreation	Y	Y	N	N	Y*	N
Restaurant	Y	Y*	Y*	N	N	N
Retail Business	Y	Y*	Y*	N	N	N
Retail Business ** <7 employees	Y	Y*	Y*	N	Y*	N
Service Business	Y	Y*	Y*	N	Y*	N
Shopping Center	Y	Y*	N	N	N	N
Wholesale Business	Y*	Y*	Y*	N	N	N
Wireless Telecommunications Facility (minor) <70 feet	N	Y	N	N	Y	N
Wireless Telecommunications Facility (major) ≥70 feet And/or Any expansion	N	Y*	N	N	Y*	N
<b>INDUSTRIAL COMMERCIAL</b>						
Accessory Use	N	Y	N	N	N	N
Bulk Oil/Gas Terminal	N	Y*	N	N	N	N
Demolition/Waste Disposal	N	N	N	N	N	N
Medical Marijuana	N	Y	N	N	N	N
Manufacturing	N	Y*	N	N	N	N
Recycling Operations	N	Y*	N	N	N	N
Sawmill	N	Y*	N	N	N	N
Transportation, Communication Facilities	N	Y*	N	N	N	N
Trucking Distribution Terminal	N	Y*	N	N	N	N
Warehousing and Storage	N	Y*	N	N	N	N

Minimum lot area per principal structure or dwelling (subject to exemptions 1 and 3 below)  
(square feet)

USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
Accessory Structure	Y	Y	Y	Y	Y	Y
Church, Synagogue, Parish House	N	N	Y*	Y*	Y*	N
Community Centers/Clubs	Y*	N	Y*	Y*	Y*	N
Daycare	N	N	Y	Y	Y	N
Essential Services	Y	Y	Y	Y	Y	Y
Fire Police Station	Y	Y*	Y*	Y*	Y*	N
Government Office	Y	Y*	Y*	N	Y*	N
Group Homes, Hospice	N	N	Y*	Y*	Y*	N
Nursing Homes	Y	N	Y*	N	Y	N
Hospital	Y	N	Y*	N	N	N
Out-Patient Medical Facility	Y	N	Y*	N	Y*	N
Museum, Library	Y	Y*	Y*	N	N	N
Public, Private School	Y	Y*	Y*	Y*	Y*	N
Public Utility Facility	Y*	Y*	Y*	Y*	Y*	Y*



USE/STRUCTURE	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
<b>OUTDOOR, RESOURCE BASED USES</b>						
Accessory Structure	Y	Y	Y	Y	Y	Y
Agriculture/Aquaculture	Y	Y	Y	Y	Y	Y
Agricultural/Aqua cultural Products Processing and Storage	Y	Y*	N	Y	Y	N
Animal Breeding or Care	N	Y*	N	N	Y	N
Campground	N	N	N	Y*	Y*	N
Cemetery	N	N	N	Y	Y	N
Extractive Industry	N	N	N	Y*	Y*	N
Farm Stands	Y	Y	Y	Y	Y	Y
Forestry	Y	Y	Y	Y	Y	Y
Golf Course excluding miniature golf	N	N	N	Y*	Y*	N
Parks and Recreation	Y	Y	Y	Y	Y	Y

DIMENSIONAL REQUIREMENTS						
Lots in all districts shall meet or exceed the following minimum requirements (additional area may be required by other provisions of this Ordinance)						
DIMENSIONS Minimum lot area (sq ft.)	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
With Public Sewer	0	2 acres	7,500	7,500	7,500	
Without Public Sewer	43,560	2 acres	20,000	1 acre	2 acres	

**Minimum lot area per principal structure or dwelling (subject to exemptions 1 and 3 below) (square feet)**

DIMENSIONS	COMMERCIAL (C)	INDUSTRIAL/ COMMERCIAL (IC)	LOW DENSITY (LD)	MEDIUM DENSITY (MD)	RURAL (R)	RESOURCE PROTECTION (RP)
With Public Sewer	7,500	2 acres	7,500 (2)	7,500	7,500	
Without Public Sewer	30,000	2 acres	20,000	1 acre	2 acre	
Minimum Frontage (feet)	20	100	75	100	200	

**Minimum yard Dimensions (feet)**

Front Setback	10	50	35	50	50	
Side setback (notes 4,5)	0/15 *	20	15	20	20	
Rear setback	15	20	15	20	20	
Medical Marijuana		250				

- 1) Minimum lot area per mobile home in mobile home parks shall be 6,500 square feet with sewer and 20,000 square feet without sewer.
- 2) There is no minimum lot area for single accessory apartments.
- 3) The minimum lot area per dwelling unit is 3 acres in areas located over the Town's aquifers as identified in the Comprehensive Plan, Enacted June 13, 1992. "The minimum lot area per dwelling unit is 3 acres in areas located in the wellhead Protection District as identified in Section 3A of this Ordinance." And ¼ acre with Town sewer.
- 4) \* Commercial side setback abutting a commercial property is 0 (zero).
- 5) \* Commercial side setback abutting residential property is 15 feet.
- 6) Minimum setback from each abutting owner on all property boundaries

Note to "Industrial Commercial": Medical marijuana Registered Dispensary and medical marijuana production facility land uses are classified as "Manufacturing uses", which are restricted to the Industrial Commercial Zone upon site plan review approval by the Planning Board.

**NOTES TO TABLE:**

- A. Lot Size Calculation.** All lots created after the effective date of this Ordinance shall comply with the "Net Acreage Calculation" standard contained in the Performance Standards, Section 4(D), of this Ordinance.
- B. Required Frontage.** All lots hereinafter created shall possess a minimum frontage on (1) a public road, or an (2) a private road or other thoroughfare or access route which meets the specifications for road construction in the Town's Subdivision Review Standards; except that for back lots not part of a subdivision, the road frontage requirement is not applicable if a private vehicular access roads is provided in conformance with this Ordinance, Section 4A, and all dimensional requirements are attained.
- C. Cul-de-sac Frontage.** New building lots located at the end of a cul-de-sac shall be designed so that they have a minimum of 100 feet of street frontage along the front lot lines in the rural district or a minimum of 50 feet of street frontage in all other districts; and, all other dimensional requirements shall apply.
- D. Front Setback.** The minimum front setback along a public road shall be measured from the edge of the right-of-way line, according to the above table. The depth of any yard abutting a public road shall conform to the front setback.
- E. Multiple Structures.** If more than one dwelling unit is constructed on a single parcel of land, the minimum lot area per principal structure or dwelling unit requirement shall apply, and all structures shall meet the front, side, and rear setback requirements. If more than one commercial or industrial structure is constructed on a lot, the minimum lot area required shall be met for each additional structure, even if such structures are connected.
- F. Driveways, Parking Areas.** Driveways and parking areas may be located within any required setback area but shall not be located within six (6) feet of the side or rear lot lines.
- G. Setback Measurements.** All setbacks shall be measured from the property line to the nearest part of the building.
- H. Garages, Accessory Structures.** No garage or other accessory structure shall be located in the required setbacks except as permitted below: When located to the rear of the principal, accessory buildings no larger than 150 square feet in floor area may be located within the required side or rear setbacks provided that no such structure shall be located less than 6 feet from a side or rear lot line.
- I. Corner Lots.** The front setback requirements shall be observed along all roads abutting the lot.
- J. Corner Lot Obstructions.** All corner lots shall be kept free from visual obstruction for a distance of twenty-five (25) feet measured from the edge of the pavement or traveled way.
- K. Abutting Structures.** Where a proposed structure would be abutted on both sides by existing structures, either on the same lot or adjoining lots, whose front setbacks are less than the required setback, the setback of the proposed structure may be reduced to that of the structure with the greatest front setback.
- L. Wetlands, Floodplains Setback.** Structures shall be located outside of designated floodplain area and 75 feet from wetlands identified by the Town Shoreland Zoning Ordinance. This requirement shall not apply to pipelines, sewer lines, and electrical transmission lines that

\*\* Derivation: Town Meeting Vote June 9, 2009 Section 3-4 Land Use Tables

Under Commercial, pg. 3-4, Add Retail Business with < 7 employees section, allowed in Rural Zoning with Y\*, site plan review by the Planning Board

\*\* Derivation: Town Meeting Vote June 14, 2011 Section 3-4 Land Use Tables

**Wireless Telecommunications Communications** in Land Use Tables 3-4, added the words "< 70 feet" to the Wireless Telecommunications Facility (minor). Added a table for Wireless Telecommunications Facility (major) and included the words in the description ">70, any expansion". *[Warrant Article 29]*

\*\* Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses

**Land Use Dimensional requirements for Commercial Zone** with public sewer changed from 7,500 sq. feet to 0 (zero) feet. *[Warrant Article 30]*

\*\* Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses

**Under Minimum lot area per principal structure or dwelling** changed Commercial Zone minimum frontage from 50 feet to 20 feet. *[Warrant Article 31]*

\*\* Derivation: Town Meeting Vote June 14, 2011 Section 3-7 Table of Land Uses **Minimum**

**yard Dimensions (feet)** changed Commercial side setback abutting a commercial property from 15 feet to 0 (zero) feet. Commercial side setback abutting a residential property remains 15 feet. *[Warrant Article 32]*

**Minimum yard Dimensions (feet)** changed Commercial front setback from 35 feet to 10 feet. *[Warrant Article 32]*

\*\* Derivation: Town Meeting Vote June 14, 2011 Land Use Tables

The **Potential Development Zone** column was removed when Voters approved to rezone all Potential Development Zone plots as set forth in the plan developed by the Planning Board – maps and descriptions will be kept with the other maps in the Selectmen's room. The language defining the Potential Development Zone was removed from Section 3-6. *[Warrant Article 35]*

\*\* Derivation: Town Meeting Vote November 4, 2014 Land Use Tables

Section 3(C) pages 3-2 Automobile Repair, Body Shop, Sales, Car Wash Rural Zone box changed from "N" to Y1\*



\*\* Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

DEFINITIONS, page 4 - wording changed as follows: "An On-Site Inspection is a visit to the proposed subdivision by the ~~Planning Board~~ Code Enforcement Officer and the Applicant or an authorized representative or agent."

\*\* Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

## ARTICLE 5: INTRODUCTORY MEETING

### SECTION 2: PROCEDURE SUBSECTION c: ON-SITE INSPECTION page 6

Changes in the wording as follow:

1. Within 30 days of the Pre-application meeting, the ~~Board~~ Code Enforcement Officer shall hold an On-Site Inspection of the property.
2. The ~~Board~~ Code Enforcement Officer shall inform the Applicant in writing of the required contour interval to be used on the Final Plan.

\*\* Derivation: Town Meeting Vote November 4, 2014 Subdivision Regulations

### ARTICLE 6 PLAN APPLICATION page 6 - Wording changed as follows:

"Within six months after the on-site inspection by the Board Code Enforcement Officer the Applicant shall submit a Complete Application for approval of a Final Plan at least ten days prior to a scheduled meeting of the Board."

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## SECTION 3A. WELLHEAD PROTECTION DISTRICT REQUIREMENTS

Enacted June 13, 1992

Amended Performance Standards June 21, 1994

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### A. PURPOSE

The purpose of Wellhead Protection District is to protect the quality of the Tapley Well, Clinton's public water supply, through the regulations of land use activities which have been shown to be potential sources of contamination.

The Wellhead Protection District is the surface and subsurface area surrounding the Tapley public water supply well through which contaminants are reasonably likely to move toward and reach the well. The Wellhead Protection District is composed of both the primary and secondary Wellhead Protection Districts.

### B. DISTRICT BOUNDARIES

The Wellhead Protection District is depicted by the certain map entitled "Primary and Secondary Wellhead Protection Districts for Clinton's Tapley Well" prepared by Emery and Garrett Groundwater, Inc., dated January, 1993. This map identifies the boundaries of the Wellhead Protection District. The following general description of the boundaries of the district is merely a guide:

1. The Primary Wellhead Protection District is the area surrounding the Tapley Well which is underlain by saturated sands and gravels. To the North it is bounded by Evergreen Cemetery, to the South the railroad embankment, and to the East, the 12-Mile Brook. On the West the boundary is approximately 500 feet west of the well.
2. The Secondary Wellhead Protection District was defined by the geologist based on the photo lineaments, permeability of the soils, topographic divides and estimated maximum safe yield of well. It is an area totaling 638 acres. To the North it crosses 1-95 forming an arc whose furthest distance from I-95 is 1500 feet. To the East, it follows along Mutton Lane and Railroad Street and on the South it is around the cemetery. The western boundary is along the topographic divides West of the Central Maine Power Lines.
3. Questioning of the Wellhead Protection District Boundary. A landowner or developer may rebut the presumption that the land they wish to develop within the Wellhead Protection District in accordance with the following procedure:

- a. Agree to pay the fee of a hydrogeologist consultant chosen by and answerable to the Clinton Water District and Planning Board.
- b. Report to the consultant of the Water District the results of the investigation to include at least:
  - i. Several borings into surficial deposits on the sit in question to determine thickness and nature of deposits.
  - ii. Remote sensing of bedrock fractures by means of aerial imagery and geophysical surveys.
  - iii. Drilling of wells into bedrock aquifer.
  - iv. Arranging with the Water District to pump the Tapley Well while monitoring water levels at the well or wells located on the site.
  - v. Provide the Trustees of the Water District and the Planning Board with the findings of the investigation.
  - vi. Zoning changes can only be made by Town Meeting after a public hearing.

### C. LAND USES

1. The following activities are strictly regulated in the Wellhead Protection District:

#### Industrial

Waste processing for  
resource recovery

Scrap metal recycling  
Auto Salvage, junkyards

Outdoor unprotected  
storage of chemicals

Underground storage of  
petroleum products,  
coals or chemicals

Road salt storage

Textile mill or apparel  
processing

Lumber and wood veneer,  
production and preserving

Paper Manufacturing

Industrial machinery  
cleaning or repair

Mining, including  
gravel mining  
Common burrow  
Top Soil



Commercial

New or used car dealers

Gasoline service  
stations

Recreational vehicle  
dealers

Fuel oil dealers

Dry cleaning plants

Printing and Publishing

Miscellaneous

Stump dumps

Airports

Chemicals or biological  
laboratories

1-A

- a. The above-described activities or uses are absolutely prohibited within the Primary Wellhead Protection District.
- b. There is a legal presumption that the above-described activities or uses are prohibited within the Secondary Wellhead Protection District, which is rebuttable by the procedure and proofs required herein below.

i. Applicant's Burden of Proof:

In order to rebut the presumption of prohibition, for a proposed use or activity within the Secondary Wellhead Protection District otherwise prohibited by Subsection C. (i) hereinabove, the applicant must petition and prove to the Planning Board, by clear and convincing evidence, that such a proposed use will not be a potential threat to the quality of the Tapley Well aquifer. The proposed use of activity must also be proven by the applicant to conform with the criteria and standards set forth in the Land Use Ordinance, Section 5.G. The burden of proof is upon the applicant to rebut the prohibition for such proposed use of activity.

ii. Petition to Planning Board:

The applicant must petition the PLANNING BOARD for its finding and determination that the said prohibition is not applicable to the proposed use or activity. The PLANNING BOARD shall set a public hearing on a petition filed under this Subsection upon its preliminary finding that such use or activity is deemed prohibited with the Wellhead Protection District. The public hearing shall be scheduled within sixty (60) days of the Board's receipt of a petition and site review

application containing full and complete information required by this Ordinance. In addition to the other information required by the Board in the site review application, the applicant may be required to provide the following information:

- a. A thorough hydrogeological assessment of the proposed site and the contiguous area including and classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers that could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment must include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer.
- b. A complete listing, description, and classification, including toxicity ratings and including a reliable estimate of the maximum quantity of annual usage, for each and every substance which may be used, processed, created, stored, discharged, or released by the proposed use, including, but not limited to, hazardous substances, hazardous waste, special waste, toxins, petroleum, petroleum by-products, biological agents, pollutants, contaminants, and chemicals, and substances which may degrade and reconfigure, whether by natural processes or by molecular reaction with other substances present in the ground or stored or released by the proposed use. This report must contain a thorough assessment by a qualified chemical or biological engineer or expert as to the risk of contamination of the Tapley Well aquifer posed by such substances during normal operation of the proposed use as well as in the event of unforeseen discharge or release of such substances at the site. The PLANNING BOARD may require an independent assessment and evaluation by an independent chemical or biological engineer or expert, retained by the Board, with the reasonable costs of such expert services payable in advance by the applicant.

c. The following activities are deemed to be a potential threat to the quality of the Tapley well Aquifer:

1. Any commercial use of heavier than water liquids (Dense Non-Aqueous-Phase liquids – DNALPs) including, but not limited to such materials as trichloroethylene, perchloroethylene, 1,1,1-trichloroethane, creosote, poly-carbonated biphenyls (PCBs), and chlorobenzenes.
2. Underground storage of petroleum products and liquid chemicals.
3. Outdoor, barrel storage of any organic or inorganic liquid or solid chemical substances.
4. Pits, ponds and lagoons for waste storage and disposal.
5. Road salt storage.

iii. Planning Board Decision:

Within thirty (30) days from the date of the public hearing, the Planning Board shall issue its written decision upon the petition. If a petition is granted by the Board, it may impose reasonable conditions or restrictions upon the proposed use or activity to alleviate possible impact on the Wellhead aquifer. For example, the Board may set a maximum limit as to the quantity of substances used, processed, created, stored, discharged, or released. The Board may also require an applicant to provide a financial or performance guarantee for an amount adequate to cover the total costs for the installation or construction of all required improvements and remedial or safety features.

iv. Notification of Change or Modification of Use:

An approved of a use or activity under this subsection shall be limited and strictly construed according to the application filed with the Board. The applicant, or its successors, shall notify the Board prior to a change or modification of the substances used, created, processed, stored, discharged, or released by the use or activity. This notification must contain a complete listing, description, and classification,

including toxicity ratings and reliable estimate of quantity, for each substance at issue. Within thirty (30) days of receipt of such notification the Board shall determine whether the change or modification is a significant variation to the use or activity. If affirmative, then the Board shall require that a petition be submitted under this subsection with proof, by clear and convincing evidence, that such proposed change or modification will not pose a potential threat to the quality of the Wellhead aquifer. A change or modification of use shall include the increased usage of substances in excess of a maximum, allowable quantity set by the Board; and, the increased usage of substances in excess of the quantity permitted as a pre-existing non-conforming use under this Ordinance.

v. Pre-Existing Non-Conformance:

A use or activity, otherwise prohibited, which lawfully exists within the Wellhead Protection District, at the effective date of this Ordinance, shall be permitted as a pre-existing, non-conforming use under Section 2 of the Ordinance. For each such use or activity, the Planning Board shall require the filing of a complete listing, description, and classification, including toxicity ratings and quantity of annual usage, for each and every substance which is used, processed, stored, discharged, or released. The requirements of the foregoing "Notice of change or Modification of Use", shall apply to a grandfathered use in event of a change or modification of substances and an increased quantity of usage of substances, subsequent to the effective date of this Ordinance.

vi. Penalty for Non-Compliance:

A person or entity which violates the provisions of this Ordinance, including the failure to file notification for the change or modification of use, shall be subject to a fine up to \$2,500.00 per day of violation enforced pursuant to Section 6, (F) of this Ordinance.

vii. Appeals Rights:

An aggrieved party may appeal this decision of the Planning Board under this Ordinance to the Appeals Board within thirty (30) days from the date of the written decision.

viii. Party Status of Water District:

The Planning Board shall promptly notify the

Clinton Water District, or its successors, (hereinafter called "The Water District"), of an application or petition respecting a use or activity regulated under this section, The Water District shall be made and interested party to the action, and shall be furnished with all materials and information submitted by the Petitioner. The Water District shall be entitled to present evidence to the Board at any hearing conducted upon petition. Upon request of the Water District, the Planning Board may continue the proceeding for a reasonable time to enable the Water District to prepare expert testimony or evidence in reply to information presented by the petitioner. The Water District shall have the right to express its views to the Planning Board at any hearing; and, the Planning Board shall consider the position of the Water District prior to rendering its decision on the petition.

2. The following uses are allowed, (y\*), provided the Planning Board reviews the activities for their impact on the Wellhead Protection District. The Planning Board may impose reasonable conditions or restrictions upon an activity or use to alleviate potential impact on the Wellhead Protection District.

Footnotes are to Special Performance Standards in section D, below.

Pipelines, pump stations*	Public sewer systems*
Home occupations *3	Agriculture*1 Golf course, Recreational Facilities and Parks*
Roads and parking lots*4	Lumber and hardware retail stores*7
Retail nurseries and garden stores	Power laundries, beauty Shops, photo finishing Labs (car wash operations are OK so long as they are connected to public sewer)*5
Automobile or small engine repair shops*2	Food processing*



Fabricated metal products\*                      Residential\*6,8  
Medical, vet offices  
Require hookup to public sewer system\*

Electronic and electrical  
Equipment repair and  
Manufacture\*

D. SPECIAL PERFORMANCE STANDARDS TO PROTECT THE CLINTON WELL

1. Agricultural Activities- involving tillage of more than one acre, or the spreading, disposal, or storage of manure in the Wellhead Protection District shall be conducted in accordance with Management Plan specially prepared for the farmers by the Kennebec County Soil and Water Conservation District. The use of pesticides and herbicides shall be in compliance with the rules and regulations of the Maine D. E. P., U.S. E.P.A, and Management Plan of the Kennebec County Soil and Water Conservation District.
2. Fabricated Metal: Automobile and Small Engine Repair Shops- Activities shall only be conducted on flooring impervious to the materials being used. Floor drains shall be connected to the sewers. All waste oils and spent solvents shall be stored in leak-proof containers and disposed of in a legally approved disposal or recycling facility. There shall be no underground storage of gasoline or oil.
3. Home Occupations- Applicant shall indicate any incidental use of chemicals in the occupation in the home. If the home is not on public sewer, plans for disposal of grease or chemicals shall be submitted through the Planning Board.
4. Parking Lots- Provisions shall be made to catch storm water runoff from paved parking lots. The catch basin should have provisions to either drain into a storm sewer or a grass-covered catch basin. The catch basin should be cleaned on a regular basis.
5. Power Laundries, Beauty Shops and Photo Finishing shall be allowed in areas served by sewers. All chemicals, detergents, cleaners, photo finishing substance shall be stored inside and waster products contained. Floor drains must be connected to the sewers.
6. Residential-Consistent with dimensional requirements in Section 3 of this ordinance, minimum lot size for residences with public sewers must be 7,500 square feet. Without public sewer, the minimum lot area per dwelling unit is 3 acres in the Wellheadd Protection District.



7. Retail, Hardware, Lumber, Nurseries and Garden Sales- Pesticides and fertilizers shall be stored in areas protected by a roof and adequate sides to prevent exposure to precipitation.
8. Sanitary Provisions- Any septic systems located in the Wellhead Protection District shall be inspected annually by the property owner to insure that the system is functioning properly. Property owners may request inspection by the Code Enforcement Officer or Plumbing Inspector. Malfunctioning systems shall be repaired or replaced.
9. Sewer System- The sewer pipes under the Wellhead Protection District shall be monitored for leaks annually and maintained on a regularly schedule basis.

Derivation: Town Meeting June 9, 2009

Section 3A Wellhead Protection District Requirements, Subsection C.,1-A,b.vii

Replaced the words "Kennebec County Superior Court" with "Board of Appeals".

GENERAL STANDARDS

A. ACCESS TO PROPERTY

Public or Private Road Access. Each property shall be provided with access to the property by abutting public or private ways or road. Private rights-of-way shall be protected by permanent easements. Access to backland shall be retained as land is developed according to the following requirements:

1. A thirty (30) foot wide right-of-way from a public road serving only two (2) or less dwelling units;
2. A fifty (50) foot wide right-of-way from a public road serving more than two (2) dwelling units;
3. Any right-of-way serving three (3) or more dwelling units shall be built to the road standards set forth in this Ordinance and the Town Subdivision Ordinance.

B. BUFFER STRIPS

Any residential dwelling shall be located at least 100 feet from the boundary of property upon which active farming operations are conducted.

C. EXPLOSIVE MATERIALS

No flammable or explosive liquids, solids or gases shall be stored in bulk (more than 500 gallons) above ground unless they are located at - least 75 feet from any lot line, or 40 feet for underground storage, and all materials shall be stored in a manner and location which is in compliance with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state, and local regulations.

D. NET ACREAGE CALCULATION

The net acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:

1. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
2. Portions of the lot shown to be in a floodway as designated on the Flood Insurance Rate Map or Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.

3. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
  - a. slopes greater than 20%
  - b. hydric soils as defined by the U. S. Soil Conservation Service
  - c. 50% of the poorly drained soils unless the applicant can demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board
4. Portions of the lot subject to rights of way.
5. Portions of the lot located in the Resource Protection District (Shoreland Zoning).
6. Portions of the lot covered by surface waters, other than man-made.
7. Portions of the lot utilized for storm water management facilities.

E. SA NITARY PROVISIONS

1. When not serviced by the public sewerage system, the approval of building permit applications shall be subject to presentation of a completed Maine Department of Human Services Bureau of Health Engineering site evaluation form (HHE-200) which evidences adequate soil conditions for subsurface wastewater disposal.
2. Industrial or commercial waste waters may be discharged to municipal sewers only in such quantities and/or of such quality as to be compatible with municipal sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to municipal treatment processes. Pretreatment includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction and dilution. The disposal of industrial or commercial waste waters by means other than the municipal sewerage system shall comply with the laws of the State of Maine concerning water pollution. Wash water or other process water carrying stone dust, stone particles, silt or other mineral matter will not be accepted into the municipal system.

## F. STORAGE OF MATERIALS

All materials stored outdoors shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.

## G. OCCUPANCY

Enacted June 13, 1992

No structure shall be occupied until an occupancy permit has been received from the Code Enforcement Officer indicating that all terms and conditions of the applicable permits have been complied with and the structure has passed all applicable inspections. No residential structure may be inhabited unless equipped with an operable and approved waste disposal system and potable water supply.

## SPECIFIC STANDARDS

## H. AUTOMOBILE GRAVEYARDS AND JUNKYARDS

Automobile graveyards and junkyards shall meet the following standards:

1. Permit Required No automobile junkyard shall be established, operated, or maintained without first obtaining a nontransferable permit to do so from the selectmen, which permit shall be valid only until the first day of the year following.
2. DEP Permit Prior to issuance of the Town permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from DEP stating that a permit is not required.
3. Site Considerations:
  - a. No permit shall be granted if said area is within a radius of 300 feet of any dwelling, public park, public playground, public bathing beach, school, church, or cemetery, and which is in ordinary view thereof.
  - b. No motor vehicle or material shall be located on a sand and gravel aquifer or on an aquifer recharge area, as shown in the Comprehensive Plan.
  - c. No motor vehicles or material shall be located within the 100 year flood plain, as mapped by the Federal Insurance Administration. No motor vehicles or materials shall be located within 100 feet of a wetland as defined in this Ordinance.

- d. A visual buffer capable of completely screening from view all portions of the automobile graveyard or junkyard shall be established and maintained along all property lines. There shall be a setback of 50 feet from any abutting residential property line.

4. Operational Considerations:

Upon receiving a motor vehicle, the battery shall be removed, and the engine lubricant, transmission fluid, brake fluid, and engine coolant shall be drained into watertight, covered containers. No discharge of any fluids from any motor vehicle shall be permitted into or onto the ground.

I. CAMPGROUNDS AND TENTING GROUNDS

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following (in cases of possible conflict, the stricter rules shall apply):

1. All camping units or structures shall be located at least 200 feet from any residence (except residences belonging to the campground owners).
2. No occupied camper, tent, or other shelter shall remain in any camp or tenting ground for a period longer than 120 days and one having occupied a space or spaces in any single campground for a consecutive period of 120 days shall not be permitted to return to the campground for at least 30 days.
3. No trailers other than recreational vehicles as defined herein shall be permitted within any camper park, temporarily or otherwise.
4. Each recreational vehicle or tent site shall contain a minimum of three thousand (3,000) square feet, not including roads and driveways, except it shall be five thousand (5,000) square feet when within two hundred and fifty (250) feet of normal high water mark of any stream or pond.
5. Each recreational vehicle, tent, or covered shelter site shall be provided with a picnic table and an adequate trash receptacle. The park management shall empty said containers as often as necessary to keep a clean environment.
6. A campground shall provide water and sewerage systems, sanitary stations, and convenience facilities in accordance with the regulations of the State Wastewater Disposal Rules. In no case shall less than one toilet and lavatory be provided for each sex for every ten camping and tent sites.
7. Fire extinguishers capable of dealing with electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations.



## J. CLUSTER SUBDIVISION

The cluster provisions of the Subdivision Ordinance shall apply. (Note: Cluster development is required for all new subdivisions in the Rural District, unless it is determined not to be feasible or not to offer open space advantages. There is a two-plan requirement for all other districts).

## K. EXTRACTIVE ACTIVITIES

1. Any extractive industry which requires a permit from the Maine Department of Environmental Protection, under the Site Location of Development Act shall obtain written approval from the Department of Environmental Protection in addition to approval by the Planning Board under the site plan review procedures of this Ordinance. Site plan approval by the Planning Board shall be conditioned upon State approval.
2. The Planning Board may require a performance guarantee sufficient to cover the cost of rehabilitation of the site at the conclusion of operations.
3. A buffer strip of not less than one hundred (100) feet shall be maintained between the location of any extraction of materials and all property lines.
4. All areas of standing water exceeding two (2) feet in depth shall be entirely enclosed by a fence.
5. No extraction of materials shall be permitted which creates a slope steeper than two (2) feet horizontal to one (1) foot vertical.
6. Operation of equipment and extraction of materials from the site shall be permitted only Monday through Friday between the hours of 7:00 a.m. and 7:00 p.m., and Saturday between the hours of 8:00 a.m. and 7:00 p.m.
7. Suitable traffic control measures shall be made available by the operator at all access points to public roads.
8. Upon cessation of the extraction of materials or upon the expiration of the Planning Board approval, the site shall be rehabilitated in accordance with a plan approved and endorsed by the County Soil. Conservation Service and approved by the Planning Board.



## L. GASOLINE SERVICE STATIONS

The following provisions shall apply to gasoline service stations as well as convenience stores which sell gasoline.

1. All structures, including underground storage tanks, shall be no less than fifty feet from any property line.
2. No commercial fuel tanks shall be located on a sand and gravel aquifer or an aquifer recharge area as shown in the Comprehensive Plan., with the following exception;
  - A. An above-ground commercial fuel tank may be permitted upon the site review of the Planning Board under Section 5 if such above-ground tank is: (i.) approved and permitted by the State Fire Marshall's Office and other applicable state agency; (ii.) not more than 1,000 gallons capacity; (iii.) a double-walled tank designed with pump/fill valves located on the top of the tank; and (iv.) installed on a concrete slab of similar frost-proof platform with the tank being sufficiently anchored to such platforms, and with sufficient guard rails or posts for the protection against vehicular collision; provided, however, that the Planning Board may require a containment structure or design, including a concrete containment barrier with the capacity to contain 110% of the fuel tank capacity, upon review of: (1.) specific design of the proposed fuel tank, (2.) the specific soils, topography, surface waters, or similar features of the land upon which the fuel tank is to be sited, and (3.) the proximity of the fuel tank site to the boundaries of a Shoreland Zone.
3. Points of ingress and egress shall be located not less than fifty feet from the nearest intersecting roads, measured along the road center line.

## M. HOME OCCUPATIONS

1. Permitted home occupations shall be carried out without altering the residential character of the structure or neighborhood or changing the character of the lot from its principal use as a residence.
2. A home occupation shall be carried on by permanent residents of the dwelling unit, with not more than two employees who are not residents of the dwelling unit.
3. The Performance Standards of this Ordinance shall apply.
4. The sale of products shall be limited to those which are crafted, assembled, or substantially altered on the premises; to catalog items ordered off the premises by customers; and to items which are accessory and incidental to a service which is provided on the premises.

#### N. KENNELS AND VETERINARY HOSPITALS

1. All pens, runs, or kennels and other facilities shall be designed, constructed, and located on the site to minimize the adverse effects upon the surrounding properties, and in no case less than 100 feet from all property lines.
2. The owner or operator of a kennel shall maintain the premises so that no garbage, offal, feces, or other waste material shall be allowed to accumulate on the premises. The premises shall be maintained in a manner that they will not provide a breeding place for insects, vermin or rodents.
3. Temporary storage containers for any kennel or veterinary wastes containing or including animal excrement shall be kept tightly covered at all times, and emptied no less frequently than once every four days. Such containers shall be made of steel or plastic to facilitate cleaning, and shall be 100 feet from all property lines.
4. If outdoor dog "runs" are created, they shall be completely fenced in, and shall be paved with cement asphalt or a similar material to provide for cleanliness and ease of maintenance.
5. Any incineration device for burning excrement- papers and/or animal organs or remains shall be located a minimum distance of 250 feet from nearest residence other than the applicant's, and shall have a chimney vent not less than 35 feet nor more than 50 feet above the average ground elevation. The applicant shall also provide evidence that he has obtained approval from the Maine Department of Environmental Protection for the proposed incinerator.

#### O. INDUSTRIAL FACILITIES AND RELATED USES

1. All business, service, repair, manufacturing, storage, processing, or display on property abutting or facing a residential use or property shall be conducted wholly within an enclosed building unless screened from the residential area.
2. All other yards abutting or across a road from a residential use or property shall be continuously maintained in lawn or other landscaping unless screened from the residential use.
3. Access points from a public road to industrial operations shall be so located as to minimize traffic congestion and to avoid directing traffic onto roads of a primarily residential character.
4. All materials including wastes shall be stored, and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents or create a health hazard.

P. MOBILE HOME PARK STANDARDS

1. Compliance with Laws and Ordinances

Except as stipulated below, mobile home parks shall comply with all State laws and Town ordinances. All proposed mobile home parks consisting of 3 or more units shall be submitted to the Planning Board for review as a subdivision and shall meet the requirements of the Subdivision Ordinance, as appropriate. (All mobile home parks must meet the two-plan requirement.)

Q. MULTI-FAMILY DEVELOPMENTS

1. Applications

All proposed multi-family construction consisting of 3 or more units shall be submitted to the Planning Board for review as a subdivision and shall meet the requirements of the Subdivision Ordinance as appropriate. Applications for approval shall include: a map of the area; dimensions, boundaries and principal elevations of the land for which approval is sought; the names of all property owners of, record within 200 feet of the proposed site and/or immediate abutters and property owners across the street or stream; building layout and general construction plans; a site plan of all driveways and parking areas proposed to be constructed; and other information which addresses all appropriate performance standards and design requirements and all appropriate factors to be considered in evaluating proposals.

2. Additional Design Requirements

- a. All multi-family dwellings shall be connected to a central water supply and distribution system. If within the Water District, at no expense to the Town, the applicant shall demonstrate by a signed letter from an authorized representative of the Water District that an adequate water supply can be provided to the development at an adequate pressure for firefighting purposes.
- b. All buildings shall be constructed according to all appropriate State building standards.
- c. All dwelling units shall have an approved smoke or fire alarm system installed pursuant to appropriate State standards.
- d. It shall be the responsibility of the owner to provide for rubbish disposal, snow removal, and site maintenance.

## R. OFF-STREET PARKING AND LOADING

### 1. General

- a. Handicapped parking spaces shall be provided for places of public accommodation, as defined in Title 5 MRSA Section 4553, in accordance with the requirements of Title 5 MRSA Section 4594 (1 clearly marked space for every 25 spaces.)
- b. Entrance/exit design shall be reviewed by and be in conformance with the standards of the Maine Department of Transportation traffic personnel for size, location, sight-distance, grade separation, and possible future changes in highway alignment on any affected public roads.

## S. RECREATIONAL FACILITY

All recreational facilities shall meet the provisions below:

1. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
2. Containers and facilities for rubbish collection and removal shall be provided.
3. Screening, buffer areas, or landscape provisions shall be built, planted, or maintained to protect adjacent residences from adverse noise, light, dust, smoke and visual impact.
4. The proposed use shall not create a traffic hazard.
5. Adequate sanitary facilities shall be provided

## T. SIGNS

All signs shall comply with standards of the Maine Department of Transportation, including regulations as to design, illumination, size, and site location. No sign shall be greater than thirty-six (36) square feet in size. Signs of a greater size will require approval of the Land Use Board of Appeals as a variance.



## TOWN OF CLINTON

### U. Relating to Wireless Telecommunications Facility Siting

1. Section 4 (Performance Standards) of the Land Use Ordinance of the Town of Clinton is amended to add a new Subsection W to read as follows:

#### U. WIRELESS TELECOMMUNICATIONS FACILITIES.

##### 1. Standards:

All Wireless Telecommunication Facilities, as defined in paragraph 2, shall meet and comply with the following standards

- a. **Setbacks.** All wireless telecommunication towers shall be setback from any existing residential lot or public building by a distance of not less than 105% of tower height. Towers, guys and accessory facilities shall meet the minimum zoning district requirements.
- b. **Building Codes & Safety Standards.** To ensure the structural integrity of telecommunications facilities, the owner shall ensure that it is designed, constructed, and maintained in conformance with industry standards and applicable federal, State, and local building, electrical, and safety codes. Unless it can be demonstrated that the tower is access secure and not a safety hazard, a security fence or wall not less than eight (8) feet in height from the finished grade shall be provided around the tower. Access to the tower shall be through a locked gate.
- c. **Lighting.** Towers shall not be artificially lighted, unless required by the FAA or other federal or state authority. If lighting is required, the Planning Board may review the available lighting alternatives and approve the design that would cause the least disturbance of the surrounding properties and views.
- d. **Screening and Buffers.** A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
- e. **Color and Materials.** A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required by law, muted colors, earth tones, and subdued hues shall be used.
- f. **Co-Location.** A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate expansion for future co-location of at least three additional wireless telecommunications facilities or providers.

## TOWN OF CLINTON

### Relating to Wireless Telecommunications Facility Siting

#### 2. Definitions:

As used in this Subsection and in Subsections C and F of Section 5, unless the context indicates otherwise, the following terms shall have the following meanings:

- a. **Alternate Tower Structure:** "Alternate Tower Structure" means clock towers, bell steeples, light poles and water towers, and similar alternate-design mounting structures.
- b. **Antenna:** "Antenna" means the system of any poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of electromagnetic frequency signals.
- c. **Antenna Height:** "Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is the antenna. Measurement of tower height shall include antenna, base pad, and the appurtenances and shall be measured from the finish grade of the facility site. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- d. **Co-Location:** "Co-Location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- e. **Commercial Mobile Services:** "Commercial Mobile Services" means any mobile service that is provided for the profit and makes interconnected service available to the public or to such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by FCC regulations.
- f. **Expansion:** "Expansion" means the addition of antennas, towers, or other devices to an existing structure.
- g. **FAA:** "FAA" means the Federal Aviation Administration, or its lawful successor.
- h. **FCC:** "FCC" means the Federal Communications Commission, or its lawful successor.
- i. **Height:** "Height" means, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
- j. **Interconnected Services:** "Interconnected Services" means service that is interconnected with the public switched network (as such terms are defined by regulation by the FCC) or service for which a request for interconnection is pending.



## TOWN OF CLINTON

### Relating to Wireless Telecommunications Facility Siting

- k. **Mobile Service:** "Mobile Service" means a radio communication service conducted between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes both one-way and two-way radio communication services; a mobile service which provides a regular interacting group of base, mobile, portable, and associated control and relay stations (whether licensed on an individual, cooperative, or multiple basis) for private one-way or two-way land mobile communications by eligible users over designated areas of operation; and any service for which a license is required in a personal; communications service .
- l. **Parabolic Antenna:** "Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and/or transmission of an electromagnetic radiation signals in a specific directional pattern.
- m. **Personal Wireless Service Facilities:** "Personal Wireless Service Facilities" means facilities for the provision of personal wireless services.
- n. **Personal Wireless Services:** "Personal Wireless Services" means commercial mobiles services, unlicensed wireless services, and common carrier wireless exchange access service.
- o. **Tower:** "Tower" means any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purposes of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and similar structures.
- p. **Unlicensed Services:** "Unlicensed Service" means the offering of telecommunication services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services.
- q. **Wireless Telecommunications Facility:** "Wireless Telecommunications Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR) common carrier wireless exchange phone service, specialized mobile radio communications (SMR) common carrier wireless exchange access services, and personal communications service (PCS) or pager services. A wireless telecommunications facility shall not include any of the following:
  - 1. Amateur ham radio stations licensed by the FCC.
  - 2. Parabolic antennas less than seven (7) feet in diameter, that are an accessory use of the property.

## TOWN OF CLINTON

### Relating to Wireless Telecommunications Facility Siting

3. Temporary Wireless Telecommunications Facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.
  4. An antenna that is an accessory to a residential dwelling unit and is less than twenty (20) feet above roof peak or less than forty-five (45) feet above ground.
3. Notice to Abutters:
1. No application for approval of a wireless telecommunications facility shall be issued unless abutting property owners have been notified by the applicant by certified mail, at least 14 days prior to initial Planning Board or CEO consideration. The cost of notification shall be borne by the applicant. The notice shall indicate the time, place, and date of the Planning Board consideration if applicable. Public hearings may be called at the discretion of the Planning Board or CEO after notification has been given to the Board of Selectpersons.
  2. Subsection C (Classification of Projects) of Section 5 (Site Plan Review) of the, Land Use Ordinance of the Town of Clinton is amended in the second paragraph as follows:

Major developments shall include projects involving the construction or addition of 5,000 or more square feet of gross nonresidential floor area, projects involving the installation of 5,000 or more square feet of impervious surfaces, projects involving the establishment or expansion of a campground, projects involving extraction industries, construction of a new wireless telecommunication facility exceeding 75 feet in height and expansion of such existing facility that increases the existing height by more than 20 feet, or other projects requiring review which are not classified as a minor development.
  3. Subsection F (site Plan Review Application) of Section 5 (Site Plan Review) of the Land Use Ordinance of the Town of Clinton is amended in paragraph 3 to add a new subparagraph d to read as follows:

d. Wireless Telecommunication Facilities.

Applications for approval of wireless telecommunications facilities shall include the following additional information:

- i. Name of owner or operator of the wireless telecommunications facility and owner of property.
- ii. Date the wireless telecommunication facility was initially constructed or is proposed to be constructed.

## TOWN OF CLINTON

### Relating to Wireless Telecommunications Facility Siting

- iii. A description and construction detail of the wireless telecommunication facility, including: plot plan identifying location of the tower on property; dimensions of the tower; and structural supports, if any. This description shall also identify any accessory structures that are essential to operation of the telecommunication facility.
- iv. Certification that construction of the structure meets industry standards and satisfies all federal, state, and local building code requirements.
- v. Provide documentation of FCC approval and licensure.
- vi. Written evidence showing a need for a new structure and show that Co-location on an existing structure is not available.

**4. Subsection 0 (Permit: Application) of Section 6 (Administration) of the Land Use Ordinance of the Town of Clinton is amended at paragraph 1 as follow:**

1. **Application Requirements.** 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 officials as indicated by Sections 2 and 3 of this Ordinance. Applications for Site Plan Review must contain the required plans and related information as indicated in Section 5 of the Ordinance. Applications for approval of wireless telecommunication facilities that are not subject to approval by the Planning Board, shall be submitted to the Code Enforcement Officer and shall contain all of the information required under paragraph 3 of Subsection F of Section 5 of this ordinance.

**5. The definition of "Essential Services" in Subsection B of Section 8 (Definitions) of the Land Use Ordinance of the Town of Clinton is amended as follows:**

**Essential Services:** Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of waste, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings; but excluding wireless telecommunication facilities that are subject to Site Plan Review under this Ordinance.

## TOWN OF CLINTON

### Relating to Wireless Telecommunications Facility Siting

6. Subsection B of Section 8 (Definitions) of the Land Use Ordinance of the Town of Clinton is amended at the end to add a definition of "Wireless Telecommunication Facility" to read as follows:

**Wireless Telecommunications Facilities:** A use or structure as defined in Section 4, Subsection H, paragraph 2 of the Ordinance. For the purpose of Section 3, Subsection C (Land Use) of this Ordinance, "Wireless Telecommunications Facility (Major)" means any such facility that is over 70 feet in height or the expansion of any such facility that increases its height by more than 20 feet, or any such facility that requires a permit by the Planning Board. "Wireless Telecommunications Facility (Minor)" means any such facility that is not "Major", and requires a permit only by the Code Enforcement Officer.

7. Subsection C (Land Uses) of Section 3 of the Land Use Ordinance of the Town of Clinton is amended to delete the term, "radio, television tower" as it appears in the table of Land Use and to insert in its place, the term **Wireless telecommunications facility (Major)** and to place that term and related district uses at the end of the listed Commercial uses (after "Wholesale Business").

\*\* Derivation: Town Meeting Vote June 14, 2011 Section 4 Performance Standards

*[Warrant Article 33]*

Section R Off Street Parking and Loading: this section covered all of pages 4-9, 4-10, and part of 4-11. All language was stricken except the reference to Handicapped parking and Exit and Entrance designs – both Maine State Law guidelines/requirements.



Note to "Industrial Commercial": Medical marijuana Registered Dispensary and medical marijuana production facility land uses are classified as "manufacturing uses", which are restricted to the Industrial Commercial Zone upon site plan review approval by the Planning Board.

#### Section 4. "Performance Standards":

### V. MEDICAL MARIJUANA

The purpose of these standards is to control the cultivation, processing, storage and distribution of medical marijuana by controlling land uses consistent with State law and in a manner that prevents unintended consequences that could adversely impact the Town and its residents.

(a) **Approval Process:** Any proposal to establish a new or alter an existing Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall require site plan review approval of the Planning Board. In this circumstance alter means the addition of any additional caregivers, square footage, cultivation or processing capacity. The Planning Board and applicant shall follow the Application and Review Process in section 5. Notification of site walks and public hearings shall include all property owners within 1,000 linear feet, measured in a straight line from the property boundary of the proposed Dispensary or Facility. Notification of property owners shall be mailed at least 10 days before the scheduled site walk and public hearing. Applicants shall be responsible for mailing notifications to property owners to the addresses identified on a mailing list provided by the Town. In addition to other public notification requirements, the Town shall notify the Police Department and the proper State of Maine designated regulatory services prior to the public hearing on any application.

(b) **State Authorization:** Before submission of a Site Plan Review Application, the applicant must demonstrate their authorization to cultivate, process and store medical marijuana pursuant to the Maine Use of Medical Marijuana Program.

(c) **Exemptions:** As an accessory use, Medical Marijuana Home Production shall be allowed in any qualifying patient's residence or any Medical marijuana caregiver's primary year-round residence in every zone, without any requirement for land use permitting.

(d) **Performance Standards:** In addition to other requirements of this Section and related provisions of this Ordinance, the following shall apply to any application for a new or altered medical marijuana registered dispensary or a medical marijuana production facility.

- (1) **Medical Marijuana Registered Dispensary limit:** There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Clinton.
- (2) **Medical Marijuana Production Facility Limit:** There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.
- (3) **Proximity limit:** Only one Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be permitted per lot. Additionally, no Medical Marijuana Production Facility shall be located on a lot that is within 250 feet of another lot on which a Medical Marijuana Production Facility or Medical Marijuana Registered Dispensary is located. This separation requirement will prevent a concentration of these facilities and helps to ensure compliance with the State prohibition against collectives.
- (4) **Proximity Location to other Uses:** No Medical Marijuana Registered Dispensary or Medical Marijuana Production Facility shall be closer than 250 linear feet, measured in a straight line from the Dispensary or Facility building entrance, to the nearest point on the boundary of any property which is occupied by a licensed day care facility, school, Town park, Town playground, church or adjoining property.
- (5) **Security:** Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Clinton Police Department and the Police Department finds the security measures are consistent with the State requirements.
- (6) **Outside Appearance:** No signs containing the word "Marijuana" or a graphic/image of any portion of a marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisement, displays of merchandise or signs depicting the activities of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.
- (7) **Odors:** No use shall emit offensive, harmful, or noxious odors beyond the property line.



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## SECTION 5. SITE PLAN REVIEW

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### A. PURPOSE

The purpose of site plan review is to provide a level of municipal review, that would not otherwise occur, of projects that potentially could impact the Community;

### B. APPLICABILITY

Site plan approval by the Planning Board in conformity with the criteria and standards of this Section, shall be required for uses in each district which specifically require site plan approval, regardless of size, and a change of use when the new use is subject to site plan review.

### C. CLASSIFICATION OF PROJECTS

Projects subject to site plan review shall be divided into two (2) classes; minor developments, and major developments. Minor developments shall include those projects involving the construction or addition of less than five thousand (5,000) square feet of gross nonresidential floor area, projects involving the installation of less than 5, 000 square feet of impervious surfaces, projects involving the conversion of existing buildings or structures from one use to another use which requires site plan approval, or projects involving non-conforming structures or uses requiring review under Section 2 of this Ordinance.

Major developments shall include projects involving the construction or addition of 5, 000 or more square feet of gross nonresidential floor area, projects involving the installation of 5,000 or more square feet of impervious surfaces, projects involving the establishment or expansion of a campground, projects involving extraction industries, or other projects requiring review which are not classified as a minor development.

The Planning Board shall classify each project as a minor or major development. If the applicant is uncertain as to the classification of the project, he/she may request a determination.

### D. CONTENTS OF SITE INVENTORY AND ANALYSIS

The site inventory and analysis for major developments is intended to provide both the - applicant and the Planning Board with an understanding of the site and the opportunities and constraints to its use created by both the natural environment and the built environment.

The site inventory and analysis submission shall contain, at a minimum, the following information:

1. The names and addresses of the owner of record and the applicant, and of all consultants working on the project.
2. Five copies of an accurate scale plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing at a minimum:
  - a. the name of the development, north arrow, date and scale;
  - b. the boundaries of the parcel;
  - c. the topography of the site at an appropriate contour interval (2 foot to 5 foot) depending on the nature of the use and character of the site;
  - d. major natural features of the site including wetlands, streams, ponds, flood plains; groundwater aquifers. significant wildlife habitats or other important natural features;
  - e. existing restrictions or easements on the- site;
  - f. the location and size of existing utilities or improvements servicing the site;
  - g. soils information if on-site sewage disposal is proposed. This information should be detailed enough to allow those portions of the site not suitable for on-site disposal systems to be identified.
3. Five copies of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.
4. Five copies of a site analysis plan at the same scale as the inventory plan highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site 'are unsuitable for development or use, which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available, which areas of the site have development limitations (steep slopes, poor soils, wetlands, aquifers, wildlife habitat, scenic areas, flood plains, drainage, etc.) which must be addressed in the development plan, areas where there may be off-site conflicts or concerns (i.e., noise, lighting, traffic. etc.) and areas well suited to the proposed use.

5. A summary narrative of the key constraints and opportunities which need to be addressed in the development plan.

E. REVIEW OF SITE INVENTORY AND ANALYSIS

The review of the site inventory and analysis shall be informational and shall not result in any formal approval or disapproval of the project by the Board. The Board shall review the submission to determine if the information provides a clear understanding of the site and the opportunities and constraints they create for its use and development. If additional information or analysis is required, the Board shall advise the applicant of this in writing. The outcome of the review process shall be a determination by the Board of the issues and constraints that must be addressed in the formal site plan review application.

F. SITE PLAN REVIEW APPLICATION

Applications for site plan review shall be submitted on application forms provided by the Town. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer who shall forward it to the Chairman of the Planning Board. The submission shall contain at least the following exhibits and information:

1. A fully executed and signed copy of the application for development review.
2. One (1) original of all maps and drawings on durable, permanent transparency material.
3. Five (5) copies of written materials plus five (5) sets of maps or drawings containing the information listed below. The written materials shall be contained in a bound report. The maps or drawings shall be at a scale sufficient to allow review of the items listed under approved criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development.

a. General Information

- i. name of owner of record and address and applicant' s name and address if different.
- ii. the name of the proposed development.
- iii. names and addresses of all property owners within five hundred (500) feet of the edge of the property line.

- iv. sketch map showing general location of the site within the Town.
- v. boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
- vi. the tax map and lot number of the parcel or parcels.
- vii. a copy of the deed to the property, option to purchase the property or other documentation to demonstrate right , title or interest in the property on the part of the applicant.
- viii. the name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan.

b. Existing Conditions

- i. zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
- ii. the bearings and distances of all property lines of the property to be developed and the source of this information.
- iii. location and size of any existing sewer and water mains, culverts and drains on the property to be developed and of any that will serve the development from abutting roads or land.
- iv. location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
- v. the location, dimensions and ground floor elevations of all existing buildings on the site.
- vi. the location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
- vii. location of intersecting roads or driveways within two hundred (200) feet of the site.
- viii. the location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained.
- ix. the direction of existing surface water drainage across the site.

- x. the location, front view and dimensions of existing signs.
- xi. location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

c. Proposed Development Activity

- i. the location of all building setbacks, yard and buffers required by the this Ordinance.
- ii. the location, dimensions, and ground flood elevations of all proposed buildings on the site.
- iii. the location and dimensions of proposed driveways parking and loading areas, and walkways.
- iv. the location and dimensions of all provisions for water supply and wastewater disposal.
- v. the direction of proposed surface water drainage across the site.
- vi. location, front view, and dimensions of proposed signs.
- vii. location and type of exterior lighting.
- viii. proposed landscaping and buffering.
- ix. copies of applicable State approvals and permits, provided however, that the Board may approve development plans subject to the issuance of specified State approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.
- x. a schedule of construction, including anticipated beginning and completion dates.

Space shall be provided on the plan for the signatures of the Planning Board and date together with the following words, "Approved: Town of Clinton Planning Board."

4. Major Developments. Applications for major developments shall include the following additional information:
  - a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as - the Planning Board may determine.
  - b. A storm water drainage and erosion control program showing:



- i. the existing and proposed method of handling storm water run-offs.
  - ii. the direction of flow of the run-off through the use of arrows.
  - iii. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
  - iv. engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed.
  - v. methods of controlling erosion and sedimentation during and after construction.
- c. A groundwater impact analysis prepared by a ground-water hydrologist for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2, 000) gallons per day.
- d. A utility plan showing, in addition to provisions for water supply and wastewater disposal, the location and nature of electrical, telephone, and any other utility services to be installed on the site.
- e. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs, and other plants to be planted on the site.
- f. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
- g. If applicable, a written statement from the Utility District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows.
- h. The location, width, typical cross-section, grade and profiles of all proposed streets and sidewalks.
- i. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.
- j. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until they are accepted by the Town.



- k. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.
  - l. Written offers of dedication or conveyance to the Town, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which open spaces, title to which is reserved by the developer, are to be maintained.
  - m. Cost of the proposed development and evidence of financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing indicating the name of the project, amount of financing proposed, and interest in financing the project.
5. A narrative and/or plan describing how the proposed development scheme relates to site inventory and analysis if the application is for a major development.
6. The Planning Board may modify or waive any of the submission requirements when it determines that because of the size of the project or circumstances of the site such requirements would not be applicable" or would be an unnecessary burden upon the applicant and that such modification or waiver would not adversely affect the abutting landowners or the general health, safety, and welfare of the Town.

#### G. CRITERIA AND STANDARDS

The following criteria and standards shall be utilized by the Planning Board in reviewing applications for site plan approval. The standards are not intended to discourage creativity, invention and innovation. The Planning Board may waive the criteria presented in this section upon a determination by the Planning Board that the criteria are not applicable to the proposed action or upon a determination by the Planning Board that the application of these criteria are not necessary to carry out the intent of this Ordinance. The Planning Board shall approve the site plan unless the plan does not meet the intent of one or more of the following criteria provided that the criteria were not first waived by the Planning Board.

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

Environmentally sensitive areas such as wetlands, slopes greater than 20 percent, flood plains and unique natural features shall be maintained as open space. Natural drainage areas shall be preserved to the maximum extent.

2. **Access to the Site.** Vehicular access to the site shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. Intersections on major access routes to the site which are functioning at a Level of Service of C or better prior to the development shall function at a minimum at Level of Service C after development. The determination of level of service shall be based on the Highway Capacity Manual, Special Report 209, published by the Research Board, National Research Council, Washington, D.C., 1985. If any intersection is functioning at a Level of Service D or lower prior to the development, the project shall not reduce the current level of service.

The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

- a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
  - b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.
3. **Access into the Site.** Vehicular access into the development shall provide for safe and convenient access.
    - a. Any exit driveway or proposed street shall be so designed as to provide a minimum sight distance of ten times the posted speed limit in each direction, as measured from the point at which the driveway or street meets the public or private right-of-way.
    - b. points of access shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.

- c. The grade or any exit driveway or proposed street for a distance of one hundred feet from its intersection with any existing street shall be a maximum of three (3) percent.
  - d. The intersection of any access drive or proposed street shall function at a Level of Service of C following development if the project will generate four hundred (400) or more vehicle trips per twenty-four (24) hour period or at a level which will allow safe access into and out of the project if less than four hundred (400) trips are generated.
  - e. Projects generating four hundred (400) or more vehicle trips per twenty-four (24) hour period shall provide two (2) or more separate points of vehicular access into and out of the site.
4. Internal Vehicular Circulation. The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.
- a. Nonresidential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.
  - b. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
  - c. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.
  - d. All streets and access ways shall be designed to follow the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
5. Pedestrian Circulation. The development plan shall provide for a system of pedestrian circulation within the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.
6. Environmental Standards. The site plan shall be designed in accordance with applicable standards designed to protect the environment.

- a. Site Preparation. Appropriate fill shall be used.
- b. Conservation, erosion and sediment control. The following measures shall be included where applicable as part of any site plan review and approval.
  - (1) Stripping of vegetation, re-grading or other development shall be done in such a way as to minimize erosion.
  - (2) Development shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with the topography so as to create the least erosion potential and so as to adequately handle surface water runoff.
  - (3) The disturbed area and the duration of exposure of the disturbed area shall be kept to a practical minimum.
  - (4) Disturbed soils shall be stabilized as quickly as practicable.
  - (5) Temporary vegetation or mulching shall be used to protect exposed critical areas during development.
  - (6) The permanent (final) vegetation and mechanical erosion control measure shall be installed as soon as practical on the site.
  - (7) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods.
  - (8) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his or her expense as quickly as possible.
  - (9) Any activity on a stream, watercourse or swale or upon a floodway or right-of-way shall comply with the State's Natural Resources Protection Act, Title 38 M.R.S.A. Sections 480A-480S. Any such activity shall also be conducted in such a manner so as to maintain as nearly as possible the present state of the stream, watercourse, swale, floodway or right-of-way for the duration of the activity and shall be returned to its original or equal condition after such activity is completed.
  - (10) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.



c. Site Conditions

- (1) During construction, the site shall be maintained and left each day in a safe and sanitary manner. The site area shall be regularly sprayed to control dust from construction activity.
- (2) Developed areas shall be cleared "of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request and to the satisfaction of the Code Enforcement Officer.
- (3) Changes in elevation. No change shall be made in the elevation or contour of any lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer.

7. Open Space

- a. Common open space areas shall be contiguous, where possible.
- b. Common open spaces as shown on any approved development plan shall contain a notation that common open space areas shall not be further developed for any other use.
- c. When reviewing the location and type of open space designated in an application, the Planning Board shall require:
  - (1) Individual lots, buildings, streets, and parking areas shall be designed and situated:
    - (a) to minimize alterations of the natural site;
    - (b) to avoid the adverse effects of shadows, noise and traffic on the residents of the site;
    - (c) to relate to surrounding properties, to improve the view from and of buildings.
  - (2) Diversity and originality in lot layout and individual building, street, parking and lot layout shall be encouraged.

- (3) Open space shall include irreplaceable natural features located on the tract (such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, and rock outcroppings).
  - (4) Open space intended for recreation or public use shall be determined by the size, shape, topographic, graphic and location requirements of the site.
- 8. Relation of Proposed Buildings to Environment. Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimal adverse effect on the environmental and aesthetic qualities of the developed and neighboring areas.
- 9. Surface Water Drainage. Adequate provisions shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream conditions, or the public storm drainage system and shall be held to a zero percent or less off-site increase in quantity after development. On-site absorption shall be utilized to minimize discharges whenever possible. All drainage calculations shall be based on a twenty-five year storm frequency. Emphasis shall be placed on the protection of flood plains and wetlands; preservation of stream corridors; establishment of drainage rights-of-way and the adequacy of the existing system; and the need for improvements, both on site and off site, to adequately control the rate, volume and velocity of storm drainage. Maintenance responsibilities shall be reviewed to determine their adequacy.
- 10. Groundwater Protection. The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater shall demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.
- 11. Water Supply. The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.
- 12. Sewerage Disposal. A sanitary sewer system shall, be installed at the expense of the developer, or, if in the opinion of the Planning Board, service by a sanitary sewer system is not feasible, the Board may allow individual underground waste disposal systems to be used.



- a. Upstream sewage flows shall be accommodated by an adequately sized system through the proposed development for existing conditions and potential development in the upstream area or areas tributary to the proposed development.
  - b. All individual on-site systems shall be designed by a licensed soil evaluator in full compliance with the Maine State Plumbing Code, as amended. Upon the recommendation of the Local Plumbing Inspector, the Planning Board may require the location on the individual lots of reserve areas for replacement systems.
- 13. Utilities. Any utility installations above ground shall be located so as not to be unsightly or hazardous to the public and shall be landscaped or otherwise buffered so as to screen the components from public view.
- 14. Advertising Features. The size, location, texture and lighting of all exterior signs and outdoor advertising structures or features shall not detract from the layout of the property and the design of proposed buildings and structures and the surrounding properties, and shall not constitute hazards to vehicles and pedestrians.
- 15. Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures, shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- 16. Exterior Lighting. All exterior lighting shall be designed to encourage energy efficiency, to ensure safe movement of people and vehicles, and to minimize adverse impact on neighboring properties and public ways. Adverse impact is to be judged in terms of hazards to people and vehicular traffic and potential damage to the value of adjacent properties. Lighting shall be arranged to minimize glare and reflection on adjacent properties and the traveling public.
- 17. Emergency Vehicle Access. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
- 18. Landscaping. Landscaping shall be designed and installed to define, soften, or screen the appearance of off-street parking areas from the public right-of-way and abutting properties, to enhance the physical design of the building(s) and site, and to minimize the encroachment of the proposed use on neighboring land uses. Particular attention shall be paid to the use of planting to break up parking areas.

19. Waste Disposal. The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.
- a. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
  - b. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility shall be submitted.

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## SECTION 6. ADMINISTRATION, ENFORCEMENT AND PENALTIES

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### A. ADMINISTERING BODIES AND AGENTS

#### 1. Code Enforcement Officer

- a) Appointment. A Code Enforcement Officer shall be appointed or reappointed annually within one week after the annual Town Meeting.
- b) Powers and Duties The Code Enforcement, Officer shall have the following powers and duties:
  - i. Enforce the provisions of this Ordinance.
  - ii. Act upon building, construction and use applications, refer permits requiring site plan approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals.
  - iii. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent, to inspect the property or building for compliance with this Ordinance.
  - iv. Investigate complaints and reported violations and issue violation notices.
  - v. Keep written inspection reports and thorough records.
  - vi. Participate in appeals procedures and appear in court when necessary.
  - vii. Revoke a permit after notice and hearing if it was issued in error or if it was based on erroneous information.

#### 2. Planning Board

The Planning Board shall be responsible for reviewing and acting upon applications for Site Plan Review approval. Following approval, applicants shall return to the Code Enforcement Officer for a building permit.

#### 3. Board of Appeals

The Board of Appeals shall be responsible for deciding administrative and variance appeals in accordance with the requirements of Section 7.

## 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.

1. Building Permit. A building permit shall be obtained from the Code Enforcement Officer for uses which are listed as permitted uses in Section 3 of this Ordinance.
2. Site Plan Review Permit. Site plan review approval shall be obtained from the Planning Board for all uses which are listed as uses requiring site plan approval in Section 2 and Section 3 of this Ordinance.
3. Plumbing Permit (When applicable)

## C. PERMIT APPLICATION

1. Application Requirements 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 officials as indicated by Sections 2 and 3 of this Ordinance. Applications for Site Plan Review must contain the required plans and related information as indicated in Section 5 of this Ordinance.
2. Authorization. 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. Date 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. Plumbing Permit. 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.
5. Application Fee.

A fee is payable with application for a Building/Land Use Permit or with application for a Site Review. See page 6-6 for the current fee structures.

All land use permit fees shall be amended by the municipal officer (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers

(Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land-use fees at any properly warned public hearing.

D. PROCEDURE FOR ADMINISTERING PERMITS

1. Preliminary Procedure for Site Plan Review.

- a. Pre-Application Meeting Applicants are encouraged to schedule a meeting with the Planning Board, prior to a formal submission for review, so as to discuss their plans and gain an understanding of the review procedures, requirements, and standards. The Planning Board may waive specific application submission requirements when an applicant can show that such requirements are not relevant to the proposed project.
- b. Commercial/Industrial Projects For commercial/ industrial projects, applications for site plan approval shall not be submitted until a site inventory and analysis, as is required in Section 5D of this Ordinance, is first submitted to the Code Enforcement Officer and reviewed by the Planning Board. The Planning Board shall act on the completeness of the site plan inventory and analysis within 30 days of its receipt.

2. Determination of Complete Application Within 30 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 2 or Section 3, shall notify the applicant in writing either that the application has been accepted as a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete.
3. Public Hearing. If a public hearing is held, it shall be held within 30 days of the date of acceptance of the complete application.
4. Timing of Actions The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 30 days of a public hearing, or if no public hearing is held, within 30 days of the date of acceptance of the application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 30 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 30 days of the public hearing, if one is held or following acceptance of the complete application, if no hearing is held.



5. Professional Review

- a. Professional Services. The Planning Board may require that an expert consultant or consultants review one or more submissions of an application and report as to compliance or noncompliance with this Ordinance, and advise if necessary, of procedures which will result in compliance. The consultant shall estimate the cost of such review and the applicant shall deposit with the Town the full estimated cost which the Town shall place in an escrow account. The Town shall pay the consultant from the escrow account and reimburse the applicant if funds remain after payments are completed. The consultants shall be fully qualified to provide the required information and shall be mutually acceptable to the Town and the applicant.
  - b. Additional Studies The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to insure that the requirements of the Ordinance are met. The costs of all such studies shall be borne by the applicant.
6. Financial Guarantee. The Planning Board may require the posting, prior to final approval of any plan, of a bond or escrow agreement in such amount as is approved by the Board as being reasonably necessary to ensure completion of all improvements required as conditions of approval of such plan, in such form as approved by the Board and Town Selectmen. The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.
7. Conditions. The Planning Board may attach reasonable conditions to Site Plan approvals to ensure conformity with the standards and criteria of this Ordinance.
8. Burden of Proof. The applicant shall have the burden of proving that a proposed land use activity is in conformity with the purposes and provisions of this Ordinance.

E. EXPIRATION OF PERMIT

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

## F. ENFORCEMENT

### 1. Enforcement Procedure

- 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 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.

### 2. Legal Action

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

### 3. 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 MRSA Section 4452.

G. Fees

As of June 14, 2011: A fee of \$5.00 is payable with application for a Building/Land Use Permit or with application for a Site Review.

**\*\* Derivation: Town Meeting Vote June 14, 2011 [Warrant Article 34]**

**SECTION 6. ADMINISTRATION, ENFORCEMENT AND PENALTIES**

**The wording on page 6-2, section C, subsection 5 was changed to read:**

**“A fee is payable with application for a Building/Land Use Permit or with application for a Site Review. See page 6-6 for the current fee structure.”**

**and the following language was added “All land use permit fees shall be amended by the municipal officers (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers (Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land use fees at any properly warned public hearing.”**

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## SECTION 7. APPEALS

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### A. APPOINTMENT AND COMPOSITION

1. The Municipal Officers shall appoint members of the Board of Appeals.
2. The Board shall consist of five (5) members serving staggered terms of three (3) years, plus two alternates for a term of one year each.
3. The Board shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record.

### B. POWERS AND DUTIES

#### 1. Administrative Appeals

To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or Planning Board in the enforcement or administration of this Ordinance.

#### 2. Variance Appeals

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

- a. Variances may be granted only from dimensional requirements including frontage, lot area, lot width, and setback requirements.
- b. Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- c. The Board shall not grant a variance unless it finds that:
  - i. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
  - ii. The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

- aa. That the land in question cannot yield a reasonable return unless a variance is granted;
  - bb. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - cc. That the granting of a variance will not alter the essential character of the locality; and
  - dd. That the hardship is not the result of action taken by the applicant or a prior owner.
- iii. A variance cannot be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent districts.
- d. The Board of Appeals shall limit any variances granted as strictly as possible in order to insure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions posed.
- e. If a variance is granted under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within 30 days of the final approval of the variance or the variance is void. The variance is not valid until recorded as provided in this provision.

## C. APPEAL PROCEDURE

### 1. Time Limit

The 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.



## 2. Written Notice

Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes:

- a. A concise written statement indicating what relief is requested and why it should be granted.
- b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief requested.

## 3. Record of Case

Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.

## 4. Public Hearing

The Board of Appeals shall hold a public hearing on the appeal within thirty-five (35) days of its receipt of an appeal request.

## 5. Decision by Board of Appeals

- a. Quorum 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.
- b. Majority Vote 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, remand the matter to the Code Enforcement Officer or the Planning Board, or to decide in favor of the applicant on any matter which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms.
- c. Burden of Proof The person filing the appeal shall have the burden of proof.
- d. Action on Appeal Following the public hearing on an appeal, the board may affirm, affirm with conditions, or reverse the decision of the Code Enforcement Officer or Planning Board. The board may reverse the decision, or failure to act, of the Code Enforcement Officer or Planning Board only upon a finding that the decision, or failure to act, was clearly contrary to specific provisions of this Ordinance. when errors of administrative procedures or interpretations are found, the case shall be remanded back to the Code Enforcement Officer or Planning Board for correction.

- e. Time Frame. 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.
  - f. Findings. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, and the appropriate order, relief or denial thereof.
6. Appeal to Superior Court. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may appeal to Superior Court in accordance with State laws within thirty (30) days from the date of any decision of the Board of Appeals.
7. Reconsideration. The Board of Appeals may reconsider any decision reached within thirty (30) days of its prior decision. The Board may conduct additional hearings and receive additional evidence and testimony.

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## SECTION 8. DEFINITIONS

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### A. CONSTRUCTION OF LANGUAGE

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the, Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

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

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

The word "lot" includes the words "plot" and "parcel".

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

The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".'

The words "Town" or "municipality" means the Town of Clinton, Maine.

### B. DEFINITIONS:

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

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

**Accessory Use or Structure:** A use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

**Agriculture:** The cultivation of soil, producing or raising crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof, but these two terms, when used alone, shall refer specifically to a place where flowers, plants, shrubs, and/or trees are grown for sale.

**Alteration:** Any change or modification in construction, or change in the structural members of a building or structure such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

**Aggrieved Party:** A person whose land is directly or indirectly affected by the grant or denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from 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.

**Amusement Facility:** Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

**Animal Breeding or Care:** The keeping or raising of four or more animals. including domestic animals and pets. for any commercial use. This definition also includes kennels.

**Authorized Agent:** An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner(s).

**Automobile Body Shop:** A business establishment engaged in general repair, engine rebuilding, or parts replacement.

**Automobile Graveyard, Junkyard:** A yard, field, or other area used as a place of storage. other than temporary storage by an establishment or place of business which is engaged primarily in doing autobody repair work for the purpose of making repairs to render a motor vehicle serviceable, for 3 or more unserviceable, discarded, worn-out, or junked motor vehicles as defined in Title 29, Section 1, Subsection 7, or parts thereof.

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



**Boarding, Lodging Facility:** Any residential structure where lodging and/or meals are provided for compensation for a period of at least one week, and where a family residing in the building acts as proprietor or owner. When the criteria for a family residing in the building cannot be met, the building shall be classified as a hotel/motel. There shall be no provisions for cooking in any individual guest room.

**Buffer Strip:** A part of property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Building:** Any 3 dimensional enclosure by any building materials or any space for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, parking lots, electrical transmission and distribution lines, and field or garden walls or embankment retaining walls.

**Business and Professional Offices:** The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales nor activities utilizing trucks as part of the business operation.

**Campground:** Land upon which one or more tents are erected or trailers are parked for temporary use for a fee on sites arranged specifically for that purpose.

**Cemetery:** Property used for the interring of the dead.

**Church:** A building or structure, or group of buildings or structures; designed, primarily intended and used for the conduct of religious services, excluding school.

**Civic Convention Center:** A building or complex of buildings that house municipal offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

**Club:** Any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only and not the general public; and not engaged in activities customarily carried on by a business or for pecuniary gain. Such term shall include fraternities, sororities, and social clubs generally.



**Cluster Development:** A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on a tract of 5 or more lots which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

**Code Enforcement Officer:** A person appointed by the municipal officers to administer and enforce this Ordinance.

**Commercial Recreation:** Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: campgrounds, racquet and tennis clubs, health facility, amusement parks, golf courses, gymnasiums and swimming pools etc., but not including bowling alleys or amusement centers, as defined herein.

**Commercial School:** An institution which is operated for profit, but is not authorized by the State to award baccalaureate or high degrees, which offers classes in various skills, trades, professions, or fields of knowledge.

**Commercial Use:** Any activity carried out for pecuniary gain.

**Community Center:** A building which provides a meeting place for local, non-profit community organizations on a regular basis. The Center shall not be engaged in activities customarily carried on by a business.

**Conforming:** A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

**Congregate Housing:** Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of Maine State Statutes.

**Constructed:** Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

**Day Care:** Homes and Centers licensed as such by the Maine Department of Human Services.

**Density:** The number of dwelling units per lot of land.

**Development:** Any man-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

**District:** A specified portion of the municipality, delineated on the land use map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

**Dwelling:** Any building or structure or portion thereof designed or used for residential purposes.

1. Single-Family Dwelling - Any structure containing only one (1) dwelling unit for occupation by not more than one (1) family.
2. Two-Family Dwelling - A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
3. Multi-Family Dwellings - A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
4. Dwelling Unit - A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

**Essential Services:** Facilities for the transmission or distribution of water, gas, electricity or essential communications or for the collection, treatment or disposal of wastes, including without limitation, towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories but not buildings.

**Extractive Industries:** The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock or other mineral deposits, not including:

1. The excavation of material incidental to and at the site of approved construction of buildings, driveways or parking areas;
2. The excavation of material incidental to and at the site of construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot within a one year period.

**Family:** One or more persons occupying a dwelling and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

**Filling:** Depositing or dumping any matter on or into the ground or water.

**Flood:** A temporary rise in stream flow or tidal surge that results in water overflowing its banks and inundating adjacent areas.

1. **Flood Insurance Rate Map:** The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones.
2. **Flood Plain:** The lands adjacent to a body of water which have been or may be covered by the regional flood.
3. **Regional Flood:** The maximum known flood of a body of water; either the 100 year frequency flood, where calculated, or the flood of record.
4. **Floodway:** The channel of a river or other watercourse 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.

**Forestry:** The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

**Frontage. Road:** The horizontal, straight-line distance between the intersections of the side lot lines with the road right-of-way.

**Garage:** An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

**Gasoline Service Station:** Any place of business at which gasoline, other motor fuels or motor oils are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

**HARDSHIP:** See Undue Hardship

**Hazardous Material:** Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, designated as hazardous by the Maine Department of Environmental Protection.



**Home Occupation:** An occupation or profession which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include foods such as breads, cookies or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services, within the limits on number of employees established in other sections of this Ordinance.

**Hospital:** An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured, including as an integral part of the institution such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

**Hotel/Hotel:** A commercial building or group of buildings built to accommodate for a fee travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

**Hydric Soil:** Soil that is saturated, flooded, or ponded long enough during the growing season to develop an aerobic conditions in the upper part.

**Junkyard:** A yard, field, or other area used as a place of storage for:

- A. discarded, worn-out or junked plumbing, heating supplies, household appliances, and/or furniture;
- B. discarded, scrap, and junked lumber;
- C. old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and all scrap iron, steel, and other scrap ferrous or nonferrous material; and
- D. garbage dumps, waste dumps, and sanitary fills.

**Kennel:** establishment in which more than four (4) dogs or four' (4) cats are sold, housed, bred, boarded, or trained for a fee.

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

**Lot Area:** The total horizontal area within the lot lines, minus land below the normal high water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

**Lot, Minimum Area:** The required lot area within a district for a single use. The lot area shall be determined on the basis of the "Net Residential Acreage Calculation", contained in the Performance Standards section of this Ordinance.

**Lot, Corner:** A lot with at least two contiguous sides abutting upon a street or right of way.

**Lot, Coverage:** The percentage of a lot covered by all buildings.

**Lot Lines:** The lines bounding a lot as defined below.

1. **Front Lot Line:** Interior lots: the line separating the lot from a street right-of-way. Corner lot or through lot; the line separating the lot from either street right-of-way. Where a right-of-way does not exist or cannot be determined the front lot line shall be the edge of the paved or graveled area of the road.
2. **Rear Lot Line:** The lot line opposite the front lot line.  
On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**Lot of Record:** A parcel of land, a legal description of which or the dimensions of which are recorded on a document or map on file with the County Register of Deeds.

**Lot, Shorefront:** Any lot abutting a body of water that is regulated by the shoreland zoning ordinance.

**Lot, Through:** Any interior lot having frontages on two more or less parallel streets or rights of way or between a street and a body of water, or a right of way and a body of water, or between two bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights of way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

**Lot width:** The distance between the side boundaries of the lot measured at the front setback line.

**Medical Marijuana Registered Dispensary limit:** There shall be no more than one Medical Marijuana Registered Dispensary in the Town of Clinton.

**Medical Marijuana Production Facility Limit:** There shall be no more than four Medical Marijuana Caregivers allowed to operate within a single Medical Marijuana Production Facility.

**Mobile Home Park:** A plot of land laid out to accommodate at least two (2) mobile homes for commercial purposes.



**Neighborhood "Convenience" Stores:** A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

**Net Residential Acreage:** The area of a lot or lots which is usable for determining allowable densities, as set forth in the Net Residential Acreage Calculations standard contained in the Performance Standards section of this Ordinance.

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

**Non-Conforming:** A building, structure, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

**Nursing Home:** A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

**Odors:** No use shall emit offensive, harmful, or noxious odors beyond the property line.

**Outside Appearance:** No signs containing the word "Marijuana" or a graphic/image of any portion of a Marijuana plant or otherwise identifying medical marijuana shall be erected, posted or in any way displayed on the outside of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility. Interior advertisements, displays or merchandise or signs depicting the activities of a Medical Marijuana Registered Dispensary or a Medical Marijuana Production Facility shall be screened to prevent public viewing from outside such facility.

**Parks and Recreation:** Non-commercially operated recreation facilities open to the general public including, but not limited to playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

**Permitted Use:** Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

**Planned Unit Development:** (See Cluster Development)

**Planning Board:** The Planning Board of the Town of Clinton.

**Qualified Manufactured Housing: Enacted June 13, 1992.**

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, 2 types of manufactured housing are included. These 2 types are:

1. Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning, or electrical systems contained in the unit;
  - (a) This term also includes any structure which meets all the requirements of this subprogram, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the Standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and,
2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning, or electric systems contained in the unit.

B. All manufactured housing shall conform to the following criteria:

1. A pitched, shingled roof: a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excluding corrugated metal roofing material.
2. A permanent foundation: means of the following:
  - (a) a full, poured concrete or masonry foundation:

manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the Standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et seq; and,

2. Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, Chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning, or electric systems contained in the unit.

B. All manufactured housing shall conform to the following criteria:

1. A pitched, shingled roof: a roof with a pitch of 2 or more vertical units for every 12 horizontal units of measurement and which is covered with asphalt or fiberglass composition shingles or other materials, but specifically excluding corrugated metal roofing material.
2. A permanent foundation: means of the following:
  - (a) a full, poured concrete or masonry foundation;
  - (b) a poured concrete frost wall or a mortared masonry frost wall, with or without a concrete floor;
  - (c) a reinforced, floating concrete pad for which there is an engineer's certification if it is to be placed on soil with high frost susceptibility; and,
  - (d) any foundation which, pursuant to a building code used by the Town of Clinton, is permitted for other types of single-family dwellings.
3. Exterior siding which is residential in appearance.

The above designed criteria may not be used to prevent the relocation of any manufactured housing, regardless of its date of manufacture, that is legally sited within the Town of Clinton, as of August 4, 1988.

C. This Ordinance is intended to prohibit the future installation and use of manufactured housing that is not qualified manufactured housing, including trailers, mobile homes, or similar structures. The present use(s) of such not-qualified manufactured housing is expressly a "grandfathered" use under this Ordinance, and such use(s) are subject to the provisions for "Non-Conformance", under Section 2 of the Ordinance. This Ordinance shall, in the case of ambiguity, be interpreted by the permitting authority in a manner consistent with Title 30-A M.R.S.A. 4358. This definition is applicable to Section 3, Table of Land Uses, "Manufactured Housing (Qualified)".



**Recreational Vehicle:** A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.

**Restaurant:** An establishment where meals are prepared and served to the public for consumption on the premises entirely within a completely enclosed building; and where no food or beverages are served directly to occupants of motor vehicles or directly to pedestrian traffic from an exterior service opening or counter, or any combination of the foregoing; and where customers are not permitted or encouraged by the design of the physical facilities, by advertising, or by the servicing or packaging procedures, to take out food or beverage for consumption outside the enclosed building.

**Retail Business:** A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

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

**Road:** An existing State, county, or Town way or a street accepted or dedicated for public use by the Town of Clinton or State of Maine. The term "road" shall not include those ways which have been discontinued or abandoned.

**Security:** Before granting an approval, the Planning Board shall ensure the applicant has reviewed their property and building security plans with the Clinton Police Department and the Police Department finds the security measures are consistent with the State requirements.

**Setback:** The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings.

**Shopping Center:** Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 sq. ft. or more of gross floor space.

**Structure:** Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, including buildings, billboards, signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas, but not including sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

**Swimming Pool:** An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

**Use:** The manner in which land or a structure is arranged, designed or intended, or is occupied.

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

**Wetland:** All coastal and freshwater wetlands. "Coastal Wetlands" are all tidal and sub-tidal lands including all areas below any identifiable debris line left by tidal action, all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water habitat, and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action or normal storm flowage at any time excepting periods of maximum storm activity. Coastal wetlands may include' portions of coastal sand dunes. Fresh water wetlands are all lands identified by the Department of Inland Fisheries and Wildlife in accordance with Title 38 M.R.S.A. Section 407A, or areas identified by the United States Environmental Protection Agency having jurisdiction under Section 404 of the Clean Water Act.



## MRS Title 23, Chapter 21: MAINE TRAVELER INFORMATION SERVICES

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## 23 §1901. Legislative findings

The Legislature of this State makes the following findings of fact. [1981, c. 318, §1 (RPR) .]

**1. Tourist industry.** A large and increasing number of tourists has been coming to Maine and, as a result, the tourist industry is one of the important sources of income for Maine citizens, with an increasing number of persons directly or indirectly dependent upon the tourist industry for their livelihood.

[ 1981, c. 318, §1 (RPR) .]

**2. Information discrimination.** Very few convenient means exist in the State to provide information on available public accommodations, commercial services for the traveling public and other lawful businesses and points of scenic, historic, cultural, educational and religious interest. Provision of those facilities can be a major factor in encouraging the development of the tourist industry in Maine.

[ 1981, c. 318, §1 (RPR) .]

**3. Scenic resources.** Scenic resources of great value are distributed throughout the State, and have contributed greatly to its economic development by attracting tourists, permanent and part-time residents and new industries and cultural facilities.

[ 1981, c. 318, §1 (RPR) .]

**4. Preservation of scenic resources.** The scattering of outdoor advertising throughout the State is detrimental to the preservation of those scenic resources, and so to the economic base of the State, and is also not an effective method of providing information to tourists about available facilities.

[ 1981, c. 318, §1 (RPR) .]

**5. Proliferation of outdoor advertising.** The proliferation in number, size and manner of outdoor advertising is hazardous to highway users.

[ 1981, c. 318, §1 (RPR) .]

### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR) .

## 23 §1902. Policy and purposes

To promote the public health, safety, economic development and other aspects of the general welfare, it is in the public interest to provide tourists and travelers with information and guidance concerning public accommodations, facilities, commercial services and other businesses and points of scenic, cultural, historic, educational, recreational and religious interest. To provide this information and guidance, it is the policy of the State and the purpose of this chapter to: [1981, c. 318, §1 (RPR) .]

**1. Official information centers; signs.** Establish and maintain official information centers and a system of official business directional signs;

[ 1981, c. 318, §1 (RPR) .]

**2. Information publications.** Provide official directories, guidebooks, maps and other tourist and traveler information publications;

[ 1981, c. 318, §1 (RPR) .]

**3. Control outdoor advertising.** Prohibit and control the indiscriminate use of outdoor advertising; and

[ 1981, c. 318, §1 (RPR) .]

**4. Protection of scenic beauty.** Enhance and protect the natural scenic beauty of the State.

[ 1981, c. 318, §1 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR) .

### 23 §1903. Definitions

As used in this chapter, unless the context otherwise indicates, the following words have the following meanings. [1981, c. 318, §1 (RPR) .]

**1. Commissioner.** "Commissioner" means the Commissioner of Transportation.

[ 1981, c. 318, §1 (RPR) .]

**1-A. Controlled access highway.** "Controlled access highway" means a highway to which, in the interest of safety and efficiency of operation, abutting property owners have no right of direct access and on which the type and location of all access connections are determined and controlled by the department.

[ 1993, c. 516, §1 (NEW) .]

**1-B. Controlled access bypass.** "Controlled access bypass" means a highway designed to bypass an existing business district and meeting the definition of a controlled access highway.

[ 1993, c. 516, §1 (NEW) .]

**1-C. Agricultural product.** "Agricultural product" means an item under paragraph A, B, C or D if the item is sold in accordance with any applicable state or federal law or rule:

A. Fresh fruit, fresh produce or a fresh horticultural or agronomic commodity and a seasonal product made from that fresh fruit, fresh produce or fresh horticultural or agronomic commodity; [1997, c. 635, §1 (NEW) .]

B. Trees and wreaths used for decorative purposes; [1997, c. 635, §1 (NEW) .]

C. Maple syrup; and [1997, c. 635, §1 (NEW) .]

D. A fresh food product made from an animal raised for the purpose of providing food or from the products of that animal. [1997, c. 635, §1 (NEW) .]

[ 1997, c. 635, §1 (NEW) .]

**2. Erect.** "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw or in any other way bring into being or establish.

[ 1981, c. 318, §1 (RPR) .]

**3. Interstate system or interstate highway.** "Interstate system" or "interstate highway" means any state highway which is or does become part of the national system of interstate or defense highways, as described in the United States Code, Title 23, section 103(d) and amendments thereto or replacements thereof.

[ 1981, c. 318, §1 (RPR) .]

**4. Logo.** "Logo" means a single or multicolored symbol or design used by a business as a means of identifying its products or services.

[ 1981, c. 318, §1 (RPR) .]

**5. Maintain.** "Maintain" means to allow to exist.

[ 1981, c. 318, §1 (RPR) .]

**6. Motor vehicle.** "Motor vehicle" means a self-propelled vehicle capable of legal operation on the traveled portion of the state highways.

[ 1981, c. 318, §1 (RPR) .]

**7. Official business directional sign.** "Official business directional sign" means a sign erected and maintained in accordance with this chapter, to indicate to the traveling public the route and distance to public accommodations, facilities, commercial services for the traveling public and points of scenic, historical, cultural, recreational, educational and religious interest. Other information may be displayed by means of logos authorized pursuant to section 1910.

[ 1981, c. 318, §1 (RPR) .]

**8. On-premise sign.** "On-premise sign" means a sign which is erected and maintained according to the standards set forth in section 1914 upon the same real property that the business, facility or point of interest is located or an approach sign as permitted by section 1914, subsection 10. The signs shall only advertise the business, facility or point of interest conducted thereon or the sale, rent or lease of the property upon which it is located.

[ 1981, c. 318, §1 (RPR) .]

**9. Person.** "Person" means an individual, corporation, joint venture, partnership or any other legal entity.

[ 1981, c. 318, §1 (RPR) .]

**10. Primary system or primary highway.** "Primary system" or "primary highway" means any state highway which is or does become part of the federal aid primary system, as described in the United States Code, Title 23, section 103(b) and amendments thereto and replacement thereof.

[ 1981, c. 318, §1 (RPR) .]

**10-A. Private way.** "Private way" means a private road, driveway or public easement as defined in section 3021.

[ 1981, c. 318, §1 (RPR) .]

**10-B. Producer.** "Producer" means a person who produces, cultivates, grows or harvests an agricultural product.

[ 1997, c. 635, §1 (NEW) .]



**11. Public way.** "Public way" means any road capable of carrying motor vehicles, including, but not limited to, any state highway, municipal road, county road, unincorporated territory road or other road dedicated to the public.

[ 1981, c. 318, §1 (RPR) .]

**12. Residential directional sign.**

[ 1981, c. 576, §1 (RP) .]

**13. Secondary system or secondary highway.** "Secondary system" or "secondary highway" means any state highway, but which is not part of the interstate or primary systems.

[ 1981, c. 318, §1 (RPR) .]

**14. Sign.** "Sign" means any structure, display, logo, device or representation which is designed or used to advertise or call attention to any thing, person, business, activity or place and is visible from any public way. It does not include the flag, pennant or insignia of any nation, state or town. Whenever dimensions of a sign are specified they shall include frames.

[ 1981, c. 318, §1 (RPR) .]

**15. State highway or highway.** "State highway" or "highway" means any public way which is so designated by this Title, including interstate, primary and secondary highways.

[ 1981, c. 318, §1 (RPR) .]

**16. Traffic control sign or device.** "Traffic control sign or device" means an official route marker, warning sign, sign directing traffic to or from a community, bridge, ferry or airport, or sign regulating traffic, which has been erected by officers having jurisdiction over the public way and these signs shall be exempt from the requirements of this chapter.

[ 1981, c. 318, §1 (RPR) .]

**17. Visible.** "Visible" means capable of being seen without visual aid by a person of normal visual acuity.

[ 1981, c. 318, §1 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §§2-4 (AMD). 1981, c. 576, §1 (AMD). 1981, c. 318, §1 (RPR). 1993, c. 516, §1 (AMD). 1997, c. 635, §1 (AMD).

## 23 §1904. Travel Information Advisory Council

**1. Creation.** The Travel Information Advisory Council, established by Title 5, section 12004-I, subsection 86, shall advise the commissioner with respect to the administration of this chapter. The commissioner shall cooperate with the council by providing necessary assistance.

[ 1989, c. 503, Pt. B, §99 (AMD) .]

**2. Powers and duties.** The Travel Information Advisory Council shall advise the commissioner on rules relating to the determination of location, size, color and lettering for official business directional signs and on all other matters necessary and appropriate for the administration of this chapter.

[ 1981, c. 318, §1 (RPR) .]

**3. Membership.** The Travel Information Advisory Council is composed as follows.

A. Nine members are appointed by the Governor as follows:

- (1) One representative of the lodging industry;
- (2) One representative of the restaurant industry;
- (3) One representative of garden clubs;
- (4) One representative of agriculture;
- (5) One representative of the recreation industry;
- (6) One representative of environmental organizations;
- (7) One representative of nonprofit historical and cultural institutions;
- (8) One representative of sign designers and fabrication artisans; and
- (9) One representative of the general public.

These members are appointed to 2-year terms of office expiring on January 16th, with the terms of those members appointed under subparagraphs (1), (2), (3) and (4) expiring in odd-numbered years and the terms of those members appointed under subparagraphs (5), (6), (7), (8) and (9) expiring in even-numbered years. [1991, c. 548, Pt. B, §2 (RPR) .]

B. [1999, c. 152, Pt. F, §1 (RP) .]

C. [1991, c. 548, Pt. B, §2 (RP) .]

D. [1991, c. 548, Pt. B, §2 (RP) .]

E. [1991, c. 548, Pt. B, §2 (RP) .]

F. [1991, c. 548, Pt. B, §2 (RP) .]

G. [1991, c. 548, Pt. B, §2 (RP) .]

H. [1991, c. 548, Pt. B, §2 (RP) .]

I. [1991, c. 548, Pt. B, §2 (RP) .]

J. [1991, c. 548, Pt. B, §2 (RP) .]

K. [1991, c. 548, Pt. B, §2 (RP) .]

If a vacancy occurs prior to the expiration of a term of any member, including legislative members, that vacancy must be filled by the appointing authority as provided in this subsection for the remainder of that term.

[ 1999, c. 152, Pt. F, §1 (AMD) .]

**4. Meetings and compensation.** Meetings must be held at the call of the chair or at the call of more than 1/2 of the membership. Members of the council, except state employees, are entitled to compensation according to the provisions of Title 5, chapter 379. All council expenses must be paid from the account established by section 1919.

[ 1989, c. 735, §2 (NEW) .]

**5. Chair.** The Governor shall appoint the chair of the council.

[ 1989, c. 735, §2 (NEW) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 576, §2 (AMD). 1981, c. 318, §1 (RPR). 1983, c. 812, §§140,141 (AMD). 1989, c. 503, §B99 (AMD). 1989, c. 735, §S1,2 (AMD). 1991, c. 548, §B2 (AMD). 1999, c. 152, §F1 (AMD).

### **23 §1905. Official tourist information centers**

To the extent funds are available or contracts can be entered into, the commissioner shall establish official tourist information centers near the principal entrance points into the State, as determined by the commissioner, with the advice and recommendation of the Director of the State Development Office, and at such other locations as the commissioner deems appropriate in order to provide information about public accommodations, facilities, commercial services and other businesses for the traveling public, and points of scenic, historic, cultural, recreational, educational and religious interest. [1983, c. 477, Pt. 26, §6 (AMD) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR). 1983, c. 477, §SE,26,6 (AMD) .

### **23 §1906. Official business directional signs**

**1. Erection and maintenance.** The commissioner, with the advice of the Travel Information Advisory Council, shall designate locations for and erect official business directional signs licensed under this chapter. The official business directional signs shall be furnished and preserved by the applicant thereafter and shall conform to regulations issued by the commissioner with the advice of the Travel Information Advisory Council. Such regulations shall be consistent with section 1910.

[ 1981, c. 318, §1 (RPR) .]

**2. Agreements with municipalities.** The commissioner may:

A. Enter into contractual or other arrangements with any municipality of this State providing for the erection of official business directional signs distinctive to that municipality upon finding that:

- (1) The municipality has in effect an ordinance or regulation establishing a mandatory program of distinctive official business directional signs;
  - (2) The ordinance or regulation is administrable and enforceable and will be properly administered and enforced; and
  - (3) The ordinance or regulation is consistent with the policy and purposes of this chapter; and
- [1981, c. 576, §3 (NEW) .]

B. Contract or arrange with any municipality for administration by that municipality within its boundaries of any appropriate matter under this chapter. Any contract or arrangement made under this paragraph and any action taken pursuant to it shall comply with the policy and purposes of this chapter. [1981, c. 576, §3 (NEW) .]

Whenever any of the conditions set forth in this subsection are no longer being met, the commissioner shall promptly resume the administration of the official business directional sign program under this chapter. The commissioner shall provide written notice of his action to the municipality and may require nonconforming signs to be removed immediately.

[ 1981, c. 576, §3 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 576, §3 (AMD). 1981, c. 318, §1 (RPR).

### **23 §1907. Published information**

*(REPEALED)*

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR). 1983, c. 477, §SE, 26, 7 (RP).

### **23 §1908. Regulation of outdoor advertising**

No person may erect or maintain signs visible to the traveling public from a public way except as provided in this chapter. [1981, c. 318, §1 (RPR).]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

### **23 §1909. Eligibility for official business directional signs**

Lawful businesses and points of interest and cultural, historic, recreational, educational and religious facilities are eligible for official business directional signs, subject to this chapter and to rules promulgated by the commissioner with the advice of the Travel Information Advisory Council, and to any federal law, rule or regulation affecting the allocation of federal highway funds or other funds to or for the benefit of the State or any agency or subdivision thereof. [1981, c. 318, §1 (RPR).]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

### **23 §1910. Types and arrangements of signs**

Subject to this chapter, the commissioner, with the advice of the Travel Information Advisory Council, shall regulate the size, shape, color, lighting, manner of display and lettering of official business directional signs. A symbol may be specified for each type of eligible service of facility for inclusion upon official business directional signs. [1981, c. 576, §4 (AMD).]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §5 (AMD). 1981, c. 576, §4 (AMD). 1981, c. 318, §1 (RPR).

### **23 §1911. Number and location of signs**

**1. Location limited.** Official business directional signs shall only be located in those vicinities where the traveler must change direction from one public way to another to reach the business, facility or point of interest.

[ 1981, c. 318, §1 (RPR) .]

**2. Number limited.** Notwithstanding section 1918, the commissioner shall not issue more than 6 licenses for official business directional signs for any one place of business, facility or point of interest eligible therefor under section 1909, not more than one such official business sign shall be visible to traffic moving in any one public way leading toward the place of business, facility or point of interest nor shall any license be issued for a sign located more than 10 miles radius from the place of business, facility or point of interest.

[ 1981, c. 576, §5 (AMD) .]

**3. Waiver of requirements.** The commissioner may waive the specific requirements of this section if an applicant for a license can show unusual hardship due to conditions of topography, access or other physical characteristics.

[ 1981, c. 318, §1 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §6 (AMD). 1981, c. 576, §5 (AMD). 1981, c. 318, §1 (RPR).

### **23 §1912. Permitted locations**

In adopting regulations relating to locations for official business directional signs, the commissioner shall take into consideration such factors as the effect upon highway safety, the convenience of the traveling public and the preservation of scenic beauty. [1981, c. 318, §1 (RPR) .]

When appropriate, because of the number of signs at one location, the signs shall be displayed in tiers or on panels. Subject to the traffic safety regulations adopted by the commissioner for the purposes of this chapter, the commissioner shall also specify by regulation the general types of locations where such posts, signs or panels may be erected and maintained, and the size, shape, lighting and other characteristics of the panels and posts, including the locations of signs thereon. [1981, c. 318, §1 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §1 (RPR).

### **23 §1912-A. Official business directional signs on controlled access highways**

**1. Interstate highway.** Official business directional signs are not permitted within the right-of-way of the interstate highway.

[ 1993, c. 516, §2 (NEW) .]

**2. Permitted on certain controlled access bypasses.** Official business directional signs are not permitted within the right-of-way of controlled access highways except as provided in this subsection. Official business directional signs are permitted within the right-of-way of a controlled access bypass when the controlled access bypass is part of a route, as designated by its route number, that is not a controlled access highway throughout its length.

[ 1993, c. 516, §2 (NEW) .]

#### SECTION HISTORY

1993, c. 516, §2 (NEW).



## 23 §1912-B. Logo signs on the interstate highway system

Pursuant to rules adopted under this section, the commissioner may authorize the placement of logo signs within the right-of-way of the interstate system. A logo sign may not be larger than existing service information signs permitted on the interstate highway. Logo signs may be installed only on portions of the interstate highway that are rural in character or on certain connector highways where it is necessary to establish continuity for logo signs erected on the Maine Turnpike. A logo sign may include only logos for gas, food, lodging, camping and attractions. Applications from at least 3 qualified businesses must be approved before installation of a logo sign panel at an exit. Logos for 2 or more types of service may be displayed on the same sign panel. More than one logo sign panel may be installed at an exit only when 3 or more qualified businesses are available for each of 2 or more types of service. The number of logo sign panels at an exit may not exceed one for each type of service or a total of 5 for all types of services. Rules adopted under this section must regulate the size, shape, manner and location of logo signs and must describe the procedure for applying to the department for permission to erect a logo sign and the criteria used by the department to select among applicants. The commissioner shall establish fees for the production and placement of a logo sign and annual fees to cover the maintenance costs. [2005, c. 482, §2 (AMD).]

The commissioner, with the advice of the Travel Information Advisory Council, shall adopt rules to implement this section. Those rules may not be adopted until March 15, 1996. The commissioner shall report to the Joint Standing Committee on Transportation in January 1996 on the development of those rules. [1995, c. 416, §1 (NEW).]

### SECTION HISTORY

1995, c. 416, §1 (NEW). 1995, c. 663, §1 (AMD). 2005, c. 482, §2 (AMD).

## 23 §1913. Categorical signs

*(REPEALED)*

### SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §196 (AMD). 1979, c. 477, §7 (RPR). 1981, c. 311, §§1,2 (AMD). 1981, c. 318, §2 (RP). 1981, c. 576, §6 (RP).

## 23 §1913-A. Categorical signs

**1. Types of signs.** The following signs may be erected and maintained without license or permit under this chapter as follows:

A. Signs of a duly constituted governmental body, a soil and water conservation district or regional planning district; [1981, c. 318, §3 (NEW).]

B. Signs located on or in the rolling stock of common carriers, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]

C. Signs on registered and inspected motor vehicles, except those which are determined by the commissioner to be circumventing the intent of this chapter. Circumvention shall include, but not be limited to, signs which are continuously in the same location or signs that extend beyond the height, width or length of the vehicle; [1981, c. 318, §3 (NEW).]

D. Signs, with an area of not more than 260 square inches, identifying stops or fare zone limits of motor buses; [1981, c. 318, §3 (NEW).]

E. Signs showing the place and time of service or meetings of religious and civic organizations, in the municipality or township. Each religious or civic organization may erect no more than 4 signs. No sign may exceed in size 24 inches by 30 inches; [1981, c. 318, §3 (NEW).]

F. Memorial signs or tablets; [1981, c. 318, §3 (NEW).]

G. Hand-held or similar signs not affixed to the ground or buildings; [1999, c. 152, Pt. G, §2 (AMD).]

H. Signs bearing political messages relating to an election, primary or referendum, provided that these signs may not be placed within the right-of-way prior to 6 weeks before the election, primary or referendum to which they relate and must be removed by the candidate or political committee not later than one week thereafter; and [1999, c. 152, Pt. G, §2 (AMD).]

I. Adopt-A-Highway Program signs allowed under section 1117. [1999, c. 152, Pt. G, §3 (NEW).]

[ 1999, c. 152, Pt. G, §§2, 3 (AMD) .]

## 2. Types of signs outside the right-of-way.

The following signs may be erected and maintained outside of the public right-of-way without license or permit under this chapter as follows:

A. Signs erected by a public, civic, philanthropic, charitable or religious organization announcing an auction public supper, lawn sale, campaign or drive or other like event or soliciting contributions; [1981, c. 318, §3 (NEW).]

B. Signs erected by fairs and expositions within the county where the activity is located; [1981, c. 318, §3 (NEW).]

C. Signs bearing religious messages and signs showing the time and place of services or meetings of religious and civic organizations; [1981, c. 318, §3 (NEW).]

D. Signs erected by nonprofit historical and cultural institutions. Each institution which has certified its nonprofit status with the commissioner, may erect not more than 2 signs with a surface area not to exceed 50 square feet per sign; [1991, c. 387, §1 (AMD).]

E. Signs bearing political messages; and [1991, c. 387, §1 (AMD).]

F. [1997, c. 635, §2 (RP).]

G. Signs erected between May 1st and December 31st by a producer of agricultural products, as long as those signs advertise products that are grown, produced and sold on the producer's premise. A producer that grows, produces and sells an agricultural product from a location with frontage on a numbered state highway may not erect a sign under this paragraph adjacent to that highway. Signs must be directional in nature and may advertise only the agricultural product that is available for immediate purchase. The producer erecting the sign shall remove the sign once the agricultural product advertised on the sign is no longer available. A sign may not exceed 8 square feet in size and must be located within 5 miles of where the product is sold. A sign may only be erected on private property after the producer erecting the sign has obtained the landowner's written consent. A sign must be a minimum of 33 feet from the center of a road. A producer may not erect more than 4 signs pursuant to this paragraph and the total number of signs erected by that producer under this paragraph and section 1911, subsection 2 may not exceed 6. [1997, c. 635, §3 (NEW).]

[ 1997, c. 635, §§2, 3 (AMD) .]

**3. Regulations.** The commissioner may promulgate regulations and orders, including prohibitions, to protect highway safety and implement the intent of this chapter.

The signs referred to in this section shall be subject to regulation, including prohibition, as set forth in section 1922.

[ 1981, c. 318, §3 (NEW) .]

**4. Zones.** The commissioner may promulgate regulations permitting signs, including signs bearing commercial messages, in any zone or area of the State, together with regulations concerning the dimensions, construction, illumination and other characteristics of such signs if the Attorney General certifies to the commissioner that the United States Supreme Court has determined that signs in such zones or areas must be permitted.

[ 1981, c. 318, §3 (NEW) .]

**5. Prohibited practices.** None of the signs referred to in this section may be erected or maintained on any traffic control signs or devices, public utility poles or fixtures or upon any trees. None of these signs may be painted or drawn upon rocks or other natural features.

[ 1981, c. 318, §3 (NEW) .]

**6. Interstate system.** None of the signs referred to in this section, other than signs conforming with subsection 1, paragraphs B and C and logo signs erected pursuant to section 1912-B, may be located within the right-of-way limits of the interstate system or within 660 feet of the nearest edge of the interstate system and erected in such a fashion that the message may be read from the interstate highway.

[ 1995, c. 416, §2 (AMD) .]

#### SECTION HISTORY

1981, c. 318, §3 (NEW). 1991, c. 387, §§1,2 (AMD). RR 1991, c. 2, §89 (COR). 1995, c. 416, §2 (AMD). 1997, c. 635, §§2,3 (AMD). 1999, c. 152, §§2,3 (AMD).

## 23 §1914. On-premise signs

**1. License and permit.** No license or permit may be required for an on-premise sign.

[ 1981, c. 318, §4 (RPR) .]

**2. Number.** On-premise signs on any one property shall not exceed 10 in number, except in the case of more than one business, facility or point of interest being conducted on one property, signs for each business, facility or point of interest shall not exceed 10 in number.

[ 1981, c. 318, §4 (RPR) .]

**3. Location.** On-premise signs shall be located within 1,000 feet of the principal building where the business or facility is carried on or practiced or within 1,000 feet of the point of interest. Storage areas, warehouses and other auxiliary structures and fixtures are not deemed to be buildings where the business, facility or point of interest is carried on or practiced.

[ 1981, c. 318, §4 (RPR) .]

**4. Location, relation to public way.** No on-premise signs may be permitted:

A. Within 33 feet of the center line of any public way if the highway is less than 66 feet in width;

[1981, c. 318, §4 (RPR) .]

B. Within 20 feet from the outside edge of the paved portion of any public way with more than 2 travel lanes and a total paved portion in excess of 24 feet in width; or [1981, c. 318, §4 (RPR) .]

C. Within the full width of the right-of-way of any public way. [1981, c. 318, §4 (RPR) .]

Paragraphs A and B shall not apply to signs erected before September 1, 1957.

[ 1981, c. 318, §4 (RPR) .]

**5. Interstate highways.** Not more than one on-premise sign, advertising the sale or lease of the property, may be permitted on land adjacent to any portion of the interstate system, including ramps and interchange areas, which is visible therefrom.

Not more than one on-premise sign visible from any portion of the interstate system including ramps and interchange areas, may be permitted more than 50 feet from the principal building or structure where the business, facility or point of interest is carried on.

No on-premise advertisement, located more than 50 feet from the principal building or structure where the business, facility or point of interest advertised is carried on, may exceed 20 feet in length, width or height or 150 square feet in area, including border and trim, but excluding supports.

Any on-premise sign located more than 50 feet from the principal structure where the business, facility or point of interest is carried on that displays any trade name which refers to or identifies any service rendered or product sold shall display the name of the advertised business, facility or point of interest as conspicuously as such trade name.

[ 1981, c. 318, §4 (RPR) .]

**6. On-premise signs prohibited.** An on-premise sign is prohibited if it:

A. Attempts or appears to attempt to direct the movement of traffic or interferes with, imitates or resembles any official traffic sign, signal or device; [1995, c. 390, §1 (AMD) .]

B. Prevents the driver of a vehicle from having a clear and unobstructed view of official signs and approaching or merging traffic; [1981, c. 318, §4 (RPR) .]

C. Contains, includes or is illuminated by a flashing, intermittent or moving light or lights, except as provided in subsection 11-A; [2001, c. 268, §1 (AMD) .]

D. Uses lighting in any way unless the light is in the opinion of the commissioner effectively shielded to prevent beams or rays of light from being directed at any portion of the public way or is of such intensity or brilliance as to cause glare or impair the vision of the operator of any motor vehicle or to otherwise interfere with any driver's operation of a motor vehicle; or [1995, c. 390, §1 (AMD) .]

E. Moves, has any animated or moving parts or has the appearance of movement, except as provided in subsection 11-A. [2001, c. 268, §1 (AMD) .]

[ 2001, c. 268, §1 (AMD) .]

**7. Signs erected on natural features.** No on-premise sign may be permitted which is erected or maintained upon trees or painted or drawn upon rocks or other natural features.

[ 1981, c. 318, §4 (RPR) .]

**8. Height.** The maximum height of on-premise signs shall be 25 feet above the ground level of land upon which it is located or if the sign is affixed to or is part of a building, the maximum is 10 feet above the roof of the building.

[ 1981, c. 318, §4 (RPR) .]

**9. Jurisdiction by local authority in compact areas.** Except as otherwise provided in this chapter, administration of this chapter by the Department of Transportation does not apply to on-premises advertisements located in compact areas of an urban compact municipality, as defined in section 754,



the administration of which is the responsibility of local authority. In compact areas of an urban compact municipality adjacent to the interstate, the Department of Transportation is responsible for the administration of this section.

[ 1999, c. 473, Pt. D, §7 (AMD) .]

**10. Approach signs.** Any business or facility whose principal building, or a point of interest, which is located on a private way more than 1,000 feet from the nearest public way, or is not visible to traffic from the nearest public way, may erect no more than 2 approach signs with a total surface area not to exceed 100 square feet per sign. These signs are to be located outside the public right-of-way limits within 300 feet of the junction of the public and private ways.

[ 1981, c. 318, §4 (RPR) .]

### **11. Changeable signs.**

[ 2001, c. 268, §2 (RP) .]

**11-A. Changeable signs.** Notwithstanding subsection 6, paragraphs C and E, changeable signs are not prohibited as long as the sign complies with all the terms of this subsection. The Department of Transportation shall administer the provisions of this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings.

- (1) "Changeable sign" means an on-premise sign created, designed, manufactured or modified in such a way that its message may be electronically, digitally or mechanically altered by the complete substitution or replacement of one display by another on each side.
- (2) "Display" means that portion of the surface area of a changeable sign that is or is designed to be or is capable of being periodically altered for the purpose of conveying a message.
- (3) "Lot of record" means a lot for which the deed was legally recorded, or that was created by a plan legally recorded, in the registry of deeds for the county where the lot is located. Contiguous lots of record in the same ownership are considered one lot.
- (4) "Message" means a communication conveyed by means of a visual display of text, a graphic element or pictorial or photographic image.
- (5) "Sign assembly" means the display, border, trim and all supporting apparatus, including posts, columns, pedestals and foundation.
- (6) "Time and temperature sign" means a changeable sign that electronically or mechanically displays the time and temperature by the complete substitution or replacement of a display showing the time with a display showing the temperature. [2007, c. 124, §1 (AMD) .]

B. The display on each side of a changeable sign:

- (1) May be changed no more than once every 20 minutes, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance;
- (2) Must change as rapidly as technologically practicable, with no phasing, rolling, scrolling, flashing or blending, unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. Notwithstanding this subparagraph, a municipality may not adopt an ordinance that allows the sign to flash or display continuous streaming of information or video animation; and



(3) May consist of alphabetic or numeric text on a plain or colored background and may include graphic, pictorial or photographic images unless the municipality in which the sign is located adopts an ordinance to the contrary and notifies the Department of Transportation in writing of that ordinance. If a municipal ordinance is adopted, the municipality is responsible for the administration of that ordinance. [2007, c. 124, §2 (AMD).]

C. The display may comprise no more than 50% of the surface area of a changeable sign. [2001, c. 268, §3 (NEW).]

D. No more than one changeable sign with 2 sides is allowed per lot of record. [2001, c. 268, §3 (NEW).]

E. Changeable signs may not be located so that the message is readable from a controlled-access highway or ramp. [2001, c. 268, §3 (NEW).]

F. The highest point of the display of a changeable sign may not exceed a height of 25 feet above either the centerline of the nearest public way or actual ground level adjacent to the sign, whichever is lower. [2001, c. 268, §3 (NEW).]

G. Changeable message board signs existing in accordance with the requirements of former subsection 11 continue to exist if the signs:

(1) Are reasonably incapable of being modified or reprogrammed to comply with this section as amended; and

(2) Are not replaced, substantially rebuilt, reconstructed or repaired beyond routine maintenance. [2001, c. 268, §3 (NEW).]

H. The size, intensity of illumination and acceptable rate of change between the time display and the temperature display of a time and temperature sign must comply with rules, policies or guidelines adopted by the Department of Transportation. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. Time and temperature signs erected prior to September 29, 1995 need not comply with those rules, policies or guidelines. [2005, c. 195, §1 (AMD).]

[ 2007, c. 124, §§1,2 (AMD) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §197 (AMD). 1979, c. 477, §§8-11 (AMD). 1981, c. 318, §4 (RPR). 1995, c. 390, §§1-3 (AMD). 1999, c. 123, §1 (AMD). 1999, c. 473, §D7 (AMD). 2001, c. 268, §§1-3 (AMD). 2005, c. 195, §1 (AMD). 2005, c. 482, §3 (AMD). 2007, c. 124, §§1,2 (AMD).

## 23 §1915. Compensation

**1. Payment of compensation.** Compensation shall be paid for the removal of any sign lawfully erected as of January 1, 1978, and which is visible from the interstate or primary systems, except no compensation may be paid if such sign is exempt as provided in section 1913-A and no compensation may be paid for the removal of signs subject to immediate removal pursuant to section 1924, subsection 3.

[ 1981, c. 318, §4 (RPR) .]

**2. Procedures.** The purchase, condemnation, negotiation, assessment of damage and appeal procedures must be in accordance with this section and sections 153-A to 159.

[ 1993, c. 536, §3 (AMD) .]

**3. Acceptance of federal funds.** The commissioner may accept any allotment of funds by the United States, or any agency thereof, appropriated to carry out the United States Code, Title 23, section 131 and amendments thereto or replacements thereof. Any such funds will be applied to effectuate this chapter.

[ 1981, c. 318, §4 (RPR) .]

**4. Availability of federal funds.** No sign may be required to be compensated if the federal share of the compensation to be paid under this section is not available.

[ 1981, c. 318, §4 (RPR) .]

**5. Removal pursuant to other law.** Nothing in this section may provide compensation for the removal of signs which are lawfully removed pursuant to any other statute, regulation, ordinance or resolution of any governmental entity having jurisdiction.

[ 1981, c. 318, §4 (RPR) .]

**6. Maintenance of lawfully erected signs.** Any sign lawfully erected as of January 1, 1978, in accordance with section 1924, subsections 1 and 2 may be maintained until removed by the commissioner under subsection 7 or by section 1916.

[ 1981, c. 698, §101 (RPR) .]

**7. Removal of signs for which compensation is paid.** The commissioner shall remove a sign for which compensation is to be paid under this section when title to such sign is acquired by the State pursuant to section 154.

[ 1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §12 (AMD). 1981, c. 470, §A137 (AMD). 1981, c. 698, §101 (AMD). 1981, c. 318, §4 (RPR). 1993, c. 536, §3 (AMD).

### **23 §1916. Removal of signs by amortization**

**1. Exclusions.** This section shall not apply to:

- A. Signs for which compensation is paid under section 1915; [1981, c. 318, §4 (RPR) .]
- B. On-premise signs as provided in section 1914; [1981, c. 318, §4 (RPR) .]
- C. Exempt signs under section 1913-A; [1981, c. 318, §4 (RPR) .]
- D. Signs licensed under this chapter; [1981, c. 318, §4 (RPR) .]
- E. Signs to be removed under section 1917; and [1981, c. 318, §4 (RPR) .]
- F. Signs subject to immediate removal pursuant to section 1924, subsection 3. [1981, c. 318, §4 (RPR) .]

[ 1981, c. 318, §4 (RPR) .]

**2. Six years amortization.** Any sign lawfully erected as of January 1, 1978, may be maintained in accordance with section 1924 for 6 years after that date in order to amortize the value thereof. The owner of the sign shall remove the sign within 30 days of a receipt of a final order specified in subsection 3.

[ 1981, c. 318, §4 (RPR) .]

**3. Procedure for notice, hearing, appeal.** The procedure for notice, hearing and appeal is as follows.

A. The commissioner shall send to the sign owner notice by certified mail, return receipt requested, that a sign is to be removed pursuant to subsection 2.

Such notice shall be a final order if not appealed under paragraph B.

If the identity of such owner is not known or reasonably ascertainable by the commissioner, such notice may instead be sent to the owner of the land on which the sign is placed. [1981, c. 318, §4 (RPR) .]

B. The person owning or controlling the sign may, within 30 days of his receipt of the notice to remove, appeal the order of removal to the commissioner and receive a hearing thereon, with a record made of the hearing. The commissioner shall render a decision within 60 days of the hearing. If no appeal is taken from the commissioner's decision, it shall be a final order. Any person aggrieved by the decision of the commissioner made subsequent to the hearing may, within 30 days of the receipt of notice of such decision, appeal to the Superior Court in the county where the sign is located. The appeal shall not be de novo and shall be subject to the Maine Rules of Civil Procedure, Rule 80b. For the purposes of this section, "person aggrieved" shall include the person owning or controlling the sign and any other person who is a resident of the county where the sign is located. A final judgment of a court shall be a final order for purposes of subsection 2. [1981, c. 318, §4 (RPR) .]

[ 1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR) .

### **23 §1917. Removal of unlawful signs**

**1. Notice to remove.** The owner of a sign which was or is unlawfully erected or maintained either prior to or after the effective date of this chapter shall be in violation of this chapter until the sign is removed. The owner of the sign shall remove the sign within 30 days of receipt of a notice to remove, sent by certified mail, return receipt requested, by the commissioner. If the identity of such owner is not known or reasonably ascertainable by the commissioner, such notice may instead be sent to the owner of the land on which the sign is placed.

[ 1981, c. 318, §4 (RPR) .]

**2. Commissioner to remove sign.** If the owner fails to remove the sign as required, the commissioner shall remove the sign at the expense of the owner without any further notice or proceeding and may recover the expense of this removal from the owner.

[ 1981, c. 318, §4 (RPR) .]

**3. Interpretation of chapter.** Nothing in this chapter may be interpreted to alter, abridge or in any way interfere with any duty or obligation of a sign owner to remove signs which were nonconforming and illegal prior to January 1, 1975, under the United States Code, Title 23, section 131, as enacted by Public Law 89-285, 89 Congress S. 2084, the "Agreement for carrying out National Policy relative to Control of Outdoor Advertising in Areas adjacent to the National System of Interstate and Defense Highways and the Federal-Aid Primary System" dated December 27, 1967, and as amended on January 3, 1968, executed by and between the United States of America and the State of Maine, under the Maine Revised Statutes, Title 32, sections 2711 to 2723.

The intent of this subsection is to preclude any presumption that this chapter is intended to extend the period of use of any sign which became nonconforming and illegal before January 1, 1975, under the state agreement of December 27, 1967, as amended January 3, 1968, and Title 32, sections 2711 to 2723.

[ 1981, c. 318, §4 (RPR) .]

**4. Compensation subject to litigation.** Whenever the compensation to be paid for removal of any sign is the subject of litigation, pending the litigation such sign shall be removed as provided in subsections 1 and 2.

[ 1981, c. 318, §4 (RPR) .]

**5. Summary removal of illegal signs within the public right-of-way.** Signs which are erected in nonconformance with this chapter and which are within the limits of any public right-of-way shall be subject to immediate removal by the commissioner.

[ 1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1979, c. 477, §§13-15 (AMD). 1981, c. 318, §4 (RPR) .

### **23 §1917-A. Unlawful removal of political signs**

**1. Taking, defacing or disturbing political sign; civil violation.** A person who takes, defaces or disturbs a lawfully placed sign bearing political messages relating to a general election, primary election or referendum commits a civil violation for which a forfeiture of up to \$250 may be adjudged.

[ 1989, c. 315, (NEW) .]

**2. Application.** This section does not apply to:

A. A person authorized by a candidate or political committee to remove signs placed by or at the direction of that candidate or political committee; and [1989, c. 315, (NEW) .]

B. The landowner, or agent of the landowner, on whose property a sign has been placed. [1989, c. 315, (NEW) .]

[ 1989, c. 315, (NEW) .]

#### SECTION HISTORY

1989, c. 315, (NEW) .

### **23 §1918. Applications licensing of official business directional signs**

**1. Submitting applications.** Any person who is eligible under section 1909 for an official business directional sign may submit to the commissioner a written application therefor, on a form prescribed by the commissioner. The application shall set forth the name and address of the applicant, the name, nature and location of the business, the location where an official business directional sign is desired and such other information as the department may require. The applicant shall tender with the application the standard license fee stated in section 1919 for each sign requested.

[ 1981, c. 318, §4 (RPR) .]



**2. Granting licenses.** Following receipt of an application for an official business directional sign, the commissioner shall approve or disapprove the application. The commissioner shall not approve an application unless the requested location conforms to the regulations of the commissioner adopted pursuant to this chapter. The granting of licenses for official business directional signs on the interstate systems by the commissioner is contingent upon any requirement precedent to such approval, such as the concurrence of federal officials.

If the application is approved, the commissioner shall issue the license. If it is not approved, the commissioner shall return the application and fee, stating the reasons for refusal and giving the applicant an opportunity to correct any defects or to be heard, within 30 days, by the commissioner. Upon written request by the applicant, the commissioner shall hear the matter and notify the applicant of his findings and decision. Any person aggrieved by the decision of the commissioner may, within 30 days of receipt of the notice thereof, appeal to the Superior Court in the county where the sign is proposed to be located. The appeal shall not be de novo and shall be pursuant to the Maine Rules of Civil Procedure, Rule 80b.

[ 1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

### **23 §1919. Fees**

An applicant for an official business directional sign shall pay to the commissioner an initial license fee not to exceed \$30 for each sign, and an annual renewal fee not to exceed \$30. The amount of each fee shall be determined for each year by the commissioner in advance of such year and shall approximate to the extent practicable the amount computed by dividing the cost of the administration of the official business directional sign program by the number of signs in existence in the prior licensing year. [1981, c. 318, §4 (RPR) .]

The fees so collected by the commissioner shall be deposited with the Treasurer of State and appropriated to carry out this chapter. Such funds shall not lapse but shall remain a continuing carrying account. [1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

### **23 §1920. Penalty**

Any person, firm, corporation or other legal entity who shall erect, maintain or display a sign contrary to and in violation of this chapter, or the rules and regulations promulgated by the commissioner, shall be punished by a fine of not more than \$100 together with the cost of removal of the signs. The unlawful maintenance or display of each sign or advertising structure for any one day shall constitute a separate offense. [1981, c. 318, §4 (RPR) .]

In addition to other penalties, the commissioner may, in the name of the state, institute any appropriate action, injunction or other proceeding to prevent, restrain, correct or abate any violation of this chapter, or any orders or the rules and regulations issued or promulgated hereunder. [1981, c. 318, §4 (RPR) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).



**23 §1921. Start of enforcement**

To provide for the orderly implementation of this chapter, the State shall be divided by the commissioner into traveler information service areas which shall correspond to the Maine highway districts. The commissioner may implement the removal of signs for which compensation is paid on an area by area basis, provided all signs from which compensation is paid shall be removed by January 1, 1982 if federal funds are sufficient under section 1915. [1981, c. 576, §7 (AMD).]

**SECTION HISTORY**

1977, c. 494, §1 (NEW). 1981, c. 576, §7 (AMD). 1981, c. 318, §4 (RPR).

**23 §1922. Local ordinance**

This chapter shall not supersede the provisions of any other statute, regulation, ordinance or resolution, the requirements of which are more strict than those of this chapter and not inconsistent therewith, whether such ordinance, bylaw, regulation, resolution or statute was enacted before or after the effective date of this chapter. It shall not be inconsistent with this chapter if such statute, regulation, ordinance or resolution prohibits official business directional signs. [1981, c. 318, §4 (RPR).]

**SECTION HISTORY**

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

**23 §1923. Agreements with United States**

The commissioner is authorized, empowered and directed to enter into agreements with the United States or its agencies and subdivisions to control signs in accordance with national standards, this chapter and the best interests of the State. Nothing in this chapter may abridge any agreements with the United States in force on the effective date of this chapter. [1981, c. 318, §4 (RPR).]

**SECTION HISTORY**

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR).

**23 §1924. License or permits under repealed Title 32, chapter 38**

**1. License.** Any license issued pursuant to repealed Title 32, section 2713, shall remain in effect for 6 years from January 1, 1978, provided a licensee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section 2713. This subsection shall not allow the erection of any sign, pursuant to that license, after January 1, 1978, nor shall this subsection allow the maintenance of any sign removed pursuant to sections 1915 and 1916.

[ 1981, c. 318, §4 (RPR) .]

**2. Fee permit.** Any permit for which a fee is paid and which is issued pursuant to repealed Title 32, section 2714, shall remain in effect until the sign for which it is issued is removed pursuant to this chapter, provided a permittee shall apply annually and pay the annual fee to the commissioner provided in repealed Title 32, section 2714.

[ 1981, c. 318, §4 (RPR) .]

**3. Existing directional signs.** Upon implementation of this chapter, the commissioner may remove, or require to be removed, any existing directional sign erected and maintained pursuant to section 1153, Title 32, section 2722 prior to its repeal, and any sign erected and maintained pursuant to Title 32, section 2715 prior to its repeal, which does not qualify as an on-premise sign as defined by section 1914, or as an official business directional sign as defined by this chapter, no later than 6 years after January 1, 1978.

[ 1981, c. 576, §8 (AMD) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1977, c. 696, §§198-200 (AMD). 1979, c. 477, §16 (AMD). 1981, c. 576, §8 (AMD). 1981, c. 318, §4 (RPR).

### **23 §1925. Administration of chapter**

The commissioner shall administer this chapter with the advice of the Travel Information Advisory Council. The commissioner may employ, subject to the Civil Service Law, clerical and other assistants required for the administration of this chapter. The commissioner may delegate to personnel of the Department of Transportation the authority to administer this chapter. The commissioner may promulgate rules to administer the various provisions of this chapter that are consistent with the provisions thereof. The commissioner may execute contracts and other agreements to carry out the purposes of this chapter. [1985, c. 785, Pt. B, §104 (AMD).]

#### **1.**

[ 1981, c. 318, §4 (RP) .]

#### **2.**

[ 1981, c. 318, §4 (RP) .]

#### SECTION HISTORY

1977, c. 494, §1 (NEW). 1981, c. 318, §4 (RPR). 1985, c. 785, §B104 (AMD).

# SUBDIVISION ORDINANCE TOWN OF CLINTON

PREPARED BY: COMPREHENSIVE PLAN  
IMPLEMENTATION COMMITTEE

ASSISTED BY MAINE TOMORROW  
JUNE 1992

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## SUBDIVISION REGULATIONS FOR THE TOWN OF CLINTON

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### ARTICLE 1 - PURPOSES

To implement the State Subdivision Law, Title 30-A M.R.S.A., Sections 4401 – 4406

### ARTICLE 2 - AUTHORITY AND ADMINISTRATION

#### 2.1 Authority

This Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., Section 4403

#### 2.2 Administrator

The Planning Board of the Town of Clinton, hereafter called the Board, shall administer this Ordinance.

#### 2.3 Amendments

- A. This ordinance may be amended at an Annual or Special Town Meeting of the Town of Clinton.
- B. A public shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

### ARTICLE 3 - DEFINITIONS

In general words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Clinton Land Use Ordinance shall have the definition contained in that Ordinance, unless defined differently below, other words and terms used herein are defined as follows:

Applicant: The person applying for subdivision approval under this Ordinance.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Cluster Subdivision: A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on *a tract of 5 or more lots* which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission or required information. The Board shall issue a written statement to the Applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multi-family development, or if the Applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

Conservation Easement: a non-fiduciary interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

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

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: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities; includes single family houses, and the units in a duplex apartment house, multi-family dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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 surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

High water Mark: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or change in vegetation, and which distinguishes between predominantly aquatic and predominately terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

Multi-family Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.14 C. 2.

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

On-Site Inspection: An On-Site Inspection is a visit to the proposed subdivision by the Planning Board Code Enforcement Officer and the Applicant or an authorized representative or agent.

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

Planning Board: The Planning Board of the Town of Clinton

Pre-application Sketch Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least fifteen service connections or services water to at least 25 individuals daily for at least thirty days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this Ordinance as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the Applicant for initial review prior to submitting as application for subdivision approval. May be used by the Applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

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

Subdivision: The division of a tract or parcel of land as defined by the State Division Law Title 30-A, M.R. S.A. Sections 4401-4407.

Tract or Parcel of Land: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.



## ARTICLE 4 - ADMINISTRATIVE PROCEDURE

The Board shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who are not on the Board's agenda may be heard but only after all agenda items have been completed. However, the Board shall take no action on any application not appearing on the Board's written agenda.

## ARTICLE 5 - INTRODUCTORY MEETING, PREAPPLICATION MEETING, AND SITE INSPECTION

### 1 PURPOSE

The purpose of the introductory meeting, pre-application meeting and on-site inspection is for the Applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soil identification, and engineering by the Applicant.

### 2 PROCEDURE

#### A. Introductory Meeting

1. At a regularly scheduled Planning Board meeting, the Applicant gives a basic idea of the proposed subdivision with or without a sketch.
2. The Board asks questions and makes suggestions.
3. The Applicant is given a copy of the Ordinance and an application.
4. The Applicant will be asked to provide to the Planning Board Secretary, the name and addresses of all abutting landowners at least ten days prior to the scheduled Pre-application meeting.
5. The Applicant's name is put on the agenda for the next Board meeting for a Pre-application meeting.
6. Any expenses incurred by the Planning Board for notification of abutting landowners will be the responsibility of the Applicant.

#### B. Pre-application Meeting

1. The Applicant presents the more detailed Pre-application Sketch Plan(s) and makes a presentation regarding the proposed subdivision.
2. The Board asks questions and makes suggestions to be incorporated into the application.
3. The date of the On-Site Inspection is selected.



### C. On-Site Inspection

1. Within 30 days of the Pre-application meeting, the Board Code Enforcement Officer shall hold an On-Site Inspection of the property.
2. The Board Code Enforcement Officer shall inform the Applicant in writing of the required contour interval to be used on the Final Plan.
3. The Applicant may be required to place "flagging" at the center line of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the On-Site Inspection.

### 5.3 Submission

- A. The Pre-application Sketch Plan shall show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be free-hand penciled sketch, should be supplemented with general information to describe 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). The Sketch Plan shall also 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 acres in size.
- B. On a subdivision of five or more lots, the applicant shall submit two Pre-application sketch plans; a conventional subdivision plan with lots designed to meet the requirements of the Land Use Ordinance, and a clustered/open space plan showing how open space is to be preserved. The Board shall select the plan that best meets the goals of the Comprehensive Plan. The Planning Board may require that significant agricultural land and stream corridors be preserved as open space.

### 5.4 Rights Not Vested

The Introductory meeting, pre-application meeting, the submittal or review of the pre-application sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., Section 302.

## ARTICLE 6 - PLAN APPLICATION

- A. Within six months after the on-site inspection by the Board Code Enforcement Officer submit a Complete Application for approval of a Final Plan at least ten days prior to a scheduled meeting of the Board. If the Applicant fails to submit Complete Application within the six month' period (s) he shall be required to resubmit the Sketch Plan. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. Final Plan

Within thirty days from the public hearing or within sixty days of determining a Complete Application has been submitted, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to by the Board and the Applicant, the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A M.R.S.A., Section 4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, the Board shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.

6.2 Final Approval and filing

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the Town of Clinton.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., Section 4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the Code Enforcement Officer. Any subdivision not recorded in the Kennebec County 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. 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.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance, by the Town of Clinton of any street, easement, recreation area or other open space shown on such plan. The Plan shall contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title dedication, and provision for the cost of grading development, equipment, and maintenance of any such dedicated area.

- E. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five 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 Kennebec County Registry of Deeds to that effect.

### 6.3 FEES

- A. 1) A fee is payable with an application for a Subdivision. See the current fee structures in paragraph 3 below.  
2) All land use permit fees shall be amended by the municipal officer (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers (Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land-use fees at any properly warned public hearing.  
3) All applications for Subdivision approval shall be accompanied by a non-refundable application fee of \$25.00 per lot or dwelling unit, payable by check to the Town of Clinton. In addition, the Board may require that the Applicant pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for the application, to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75%, the Board shall notify the Applicant, and require that an additional \$15.00 per lot or dwelling unit be deposited by the Applicant. The Board shall continue to notify the Applicant and require an additional \$15.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the 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 a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- B. The Applicant, or their duly authorized representative, shall attend the meeting of the Board to present all plans. Failure to attend the meeting to present the plans shall result in delay of the Board's receipt of the plan until the next meeting which the Applicant attends.
- C. Upon receipt of an application for Subdivision approval the Board shall issue a dated receipt to the Applicant, notify in writing all owners of abutting property that an application for subdivision approval has been submitted, and notify the review authority of the neighboring municipalities if any portion of the subdivision includes or crossed the Town boundary.
- D. Within thirty days of the receipt of the application, the Board shall determine whether the application is complete and notify the Applicant in writing of its determination. If the application is not complete, the Board shall notify the Applicant of the specific additional material needed to complete the application.

- E. Upon a determination that a Complete Application has been submitted for review, the Board shall determine whether to hold a public hearing on the Application. The Board shall also notify the Road Commissioner, Fire Chief, Selectmen and other public officials, as appropriate.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a Complete Application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in Clinton at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the Applicant.

## ARTICLE 7 FINAL PLANS SUBMISSION

### 7.1 Submissions: the Final plan application shall consist of the following items.

- A. Application form (See Appendix).
- B. Location Map. The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality.

The Location Map shall show:

- 1. Locations and names of existing and proposed streets.
  - 2. An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holding.
- C. The application for approval of a Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A, M.R.S.A., Section 4404 are met.
    - 1. Proposed name of the subdivision, plus the Assessor's Map and Lot numbers.
    - 2. Verification of right, title or interest in the property.
    - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.



4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. The date the Plan was prepared, north point, and graphic map scale.
7. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners.
8. The location of all rivers, streams, and brooks within or adjacent (within 300 feet), to the proposed subdivision.
9. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
10. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
12. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
13. Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Clinton Water District, a written statement from the District shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the District IS supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
14. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.



15. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetation cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.
  16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision.
  17. 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, as depicted on the Town's Flood Insurance Rate Map, shall be delineated on the plan.
  18. An erosion and sedimentation control plan, if required by the Board, prepared in accordance with the erosion and sedimentation control standards of the Department of Environmental Protection.
  19. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife.
  20. A hydro-geologic assessment, if required by the Board, prepared in accordance with the standards of the DEP.
  21. A storm-water control plan, if required by the Board, prepared in accordance with the standards of the DEP.
  22. In residential subdivisions of 10 or more lots, an analysis of the impact of the proposed subdivision on public facilities including roads, schools, police and fire protection, outdoor recreation, water supply, sewage disposal, and storm drainage.
- D. Final Plan. The Final Subdivision Plan shall consist of two reproducible, stable based transparencies, one to be recorded at the Kennebec County Registry of Deeds, the other to be filed at the Clinton Town Office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the

plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

## ARTICLE 8 - REVISIONS TO APPROVED PLANS

### 8.1 Procedures

An applicant for revision to a previously approved plan shall, at least ten 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 procedure 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 this Ordinance and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and 'page or cabinet and sheet on which the original plan is recorded at the Kennebec County Registry of Deeds.

### 8.3 Scope of Review

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

## ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

### 9.1 Inspection of Required Improvements

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the Selectmen can cause inspection to be made to assure that all Town specification, requirements, and conditions of approval shall be met during construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Upon completion of street construction and prior to a vote by the Selectmen to submit a proposed public way to a Town Meeting, a written certification signed by a professional engineer shall be submitted to the Selectmen at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance.

### 9.3 Violations and Enforcement

- A. No plan of a division of land within the Town of Clinton which would constitute a subdivision shall be recorded in the Kennebec County Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- B. A person, shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Kennebec County Registry of Deeds.
- C. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- D. 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 this Ordinance up to and including the entire frontage of the lot.
- E. Violation of the above provisions of this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A., Section 4452

## ARTICLE 10 - GENERAL PERFORMANCE AND DESIGN STANDARDS

In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

### 10.1 Sufficient Water

- A. The subdivider must demonstrate either that: the proposed public water system has the capacity to serve the proposed subdivision, or there is sufficient ground water available to provide individual wells with an adequate supply of potable water.
- B. The Board shall require either that: the applicant shall, where soil type and topography are appropriate, construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes; or the applicant shall demonstrate that an adequate supply of naturally occurring water exists for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants or naturally occurring water supply when necessary.
- C. In cases where ponds or dry hydrants cannot be installed, and where there is no naturally occurring water source, the Board may require the subdivider to present additional options for rapid water supply after discussion with the Fire Chief.

- D. The subdivider must demonstrate that the proposed subdivision will not contaminate or otherwise harm wells on adjacent property.

#### 10.2 Soil Erosion

- A. The proposed subdivision shall not increase soil erosion that may enter water bodies, freshwater wetlands, or adjacent properties.
- B. A soil erosion control plan shall be required by the Board when slopes are between 8 and 20 percent.
- C. Slopes in excess of 20 percent shall be maintained as open space.
- D. A soil erosion plan shall be required for residential development of 10 or more lots and for commercial and industrial projects.

#### 10.3 Sewage Disposal

- A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules.
- B. 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.
- C. Where a proposed subsurface sewage disposal system is to serve more than 5 dwelling units, 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.

#### 10.4 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

- A. Preservation of Natural Beauty and Aesthetics.
  - 1. The Board may require that new developments blend in with the existing landscape and that existing land cover be maintained to the maximum extent possible.
  - 2. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.



3. Unless located in areas designated as a growth area in the Comprehensive Plan, a residential subdivision of 10 or more lots in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifteen feet (15') in width along all existing public roads. All residential subdivisions shall maintain an open space buffer strip of 100 feet between the residences and active farming operations. The buffer may be broken only for driveways and streets.

4. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

5. Unless located in areas designated as a growth area in the Comprehensive Plan, an open space buffer strip of at least 50 feet in width shall be maintained adjacent to moderate to high value waterfowl area as identified in the Comprehensive Plan.

**B. Retention of Open Spaces**

1. To the maximum extent possible, the following areas shall be retained as open space corridors: snowmobile trails, walkways, logging roads, abandoned and/or discontinued roads, deer wintering areas, historic and archaeological areas, and scenic views as seen from public roads.

2. Open space or outdoor recreational facilities shall be provided in all development of ten (10) or more lots regardless of whether or not such developments are cluster/open space developments. Depending on the size and location of the Subdivision, the Board may require the developer to provide up to ten percent (10%) of the total area for recreation. Land reserved for park and/or recreational purposes shall be of a character, configuration, and location suitable for the particular use intended. A site to be used for active recreational purposes, such as a playground or playfield, should be relatively level and dry. Sites selected for recreational purposes shall have such access as the board may deem suitable and shall be served by a right-of-way of at least thirty feet (30') in width.

**C. Preservation of Significant Wildlife Habitat**

1. Within 100 feet of any stream or river designated as a high or moderate value fishery by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan, no alteration shall be permitted.



2. Within 100 feet of the upland edge of a wetland designated as high or moderate value for waterfowl habitat by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan no alteration shall be permitted. Existing vegetative cover shall be maintained.

10.5 Conformance with Land Use Ordinance and Other Ordinances

All lots shall meet the minimum dimensional requirements of the Land Use Ordinance for the land use district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria of the Land Use Ordinance.

10.6 Financial and Technical Capacity

A. Financial Capacity

The applicant shall have adequate financial resources to construct the proposed improvements, including buildings, if a part of the project, and meet the criteria of the statute and the standards of this Ordinance. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability

In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

10.7 Ground Water Quality

A. The Clinton Water District shall be notified of any subdivisions that are within 1000 feet of their well.

B. When the Planning Board determines that a hydro-geologic assessment is necessary, the assessment shall comply with the Department of Environmental Protection's guidelines for hydro-geologic assessments as set forth under the Site Location of Development Act.

10.8 Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall include a statement that structures shall be located outside the flood hazard area.

10.9 Storm Water Management

- A. Adequate provisions shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, under-drains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.
- B. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

10.10 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services

- A. All open space common land • facilities and property shall be owned by: the owners of the lots or dwelling units by means of lot-, owners association; an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or the Town of Clinton.
- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement deeded to the municipality prohibiting future development.
- C. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate that it shall not be used for future building lots and which portions of the open space, if any, may be dedicated for acceptance by the Town of Clinton.
- D. The final plan application shall include the following:
  - 1. Covenants for mandatory membership in the lot owners association setting forth the owner's rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - 2. Draft article of incorporation of the proposed lot owners association as a not-for-profit corporation.
  - 3. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

In combination, the documents referenced in paragraph D above shall provide for the following. The homeowners association shall have the responsibility of maintaining the common property or facilities. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair, replacement of common property and facilities and tax assessments. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

10.11 Traffic Conditions

a. Access Control

1. Subdivisions of 10 or more lots located within the Rural District must front on interior roads.
2. Access to backland shall be retained as land is developed.

b. Street Design and Construction Standards

1. General Requirements

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specification contained in this Ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.
- b. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
  1. Date, scale, and north point, indicating, magnetic or true.
  2. Intersections of the proposed street with existing streets.
  3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.

4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

5. Complete curve data shall be indicated for all horizontal and vertical curves.

6. Turning radii at all intersections.

7. Center line gradients.

8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, electricity; telephone, lighting, and cable television.

c. Upon receipt of plans for a proposed street the Board shall forward one copy to the Selectmen, the Road Commissioner (s), and the Town Engineer for review and comment.

d. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner (s) or the Maine Department of Transportation, as appropriate.

e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owner and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards."

f. The Planning Board may require that land be reserved for a future connector road or street.

## 2. Street Design Standards

a. These design guidelines shall control the roadway, shoulders, curbs, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the Applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice.

- b. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), or when there are plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Land Use Ordinance.
- c. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- d. The following design standards apply according to street classification:

#### TYPE OF STREET

Description	Collector	Minor	Private Right of Way
Minimum Width right-of-Way	50'	50'	30' *
Minimum Traveled Way Width	24'	20'	18'
Minimum Width of shoulders (each side)	3'	3'	3'
Minimum Center Line radius			
- Without banking	280'	280'	175'
- With banking	175'	175'	110'
Roadway Crown **	¼ " ft	¼ " ft	***
Minimum angle of street intersections****	90 °	90 °	75 °
Maximum grade within 75 ft. of intersection	3%	3%	N/A
Minimum curb radii at intersection	25'	20'	N/A
Minimum r/o/w radii at intersections	10'	10'	10'



\*Serving only one or two dwelling units.

\*\*Roadway crown is per foot of lane width.

\*\*\*Gravel surface shall have a minimum crown of 3/4 inch per foot of lane width.

\*\*\*\*Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

### 3. Dead End Streets

In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 60 ft.; outer edge of pavement: 50 ft.; inner edge of pavement: 30 ft. The Board may require the reservation of a 20 ft easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 50 ft. easement in line with the street to provide continuation of the road where future subdivision is possible.

### 4. Intersections and Sight Distances

a. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

b. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	20	25	30	35
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distances shall be calculated with a height of eye at 3 1/2 feet and the height of object at 1/2 feet.

- c. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance (ft)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions to achieve the required visibility.

- d. Cross (four-cornered) street intersections shall be avoided insofar as possible. A minimum distance of 125 feet shall be maintained between the center lines of streets.

5. Street Construction Standards

- a. The minimum thickness of material shall meet the specifications in the table below, after compaction.

MINIMUM REQUIREMENTS

Street Material	Public Street	Private Right of Way
Aggregate Sub-base Course (max. sized stone 6") -		
Without base gravel	18"	15"
With base gravel	15"	12"
Crushed Aggregate Base Course (if necessary)	3"	3"
Hot Bituminous Pavement		
Total Thickness	3"	N/A
Surface Course	1 ¼ "	N/A
Base course	1 ¾ "	N/A
Surface Gravel	N/A	3"

b. Preparation

1. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way shall be cleared of all stumps, roots, brush, shallow ledge, large boulders and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of 2 feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the road. On soils which have been identified by a Licensed Professional Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or an HDOT approved stabilization geo-textile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of 3 feet horizontal to 1 foot vertical, and shall be graded and properly seeded according to the specifications of an erosion and sedimentation control plan. Where a cut results in exposed ledge, a side slope no steeper than 4 feet vertical to 1 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.

10.12 LOTS

- A. All lots shall meet the minimum lot size and dimensional requirements of the Land Use Ordinance.
- B. Wherever possible, side lot lines shall be perpendicular to the street.
- C. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of this Ordinance and conditions placed on the original approval.

- D. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
- E. 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.

#### 10.13 Monuments

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

#### 10.14 Cluster Developments/Two Plan Requirement

##### A. General

1. In accordance with the requirements of Article 5.3(B), the applicant shall submit a cluster plan designed to meet the requirements of the Land Use Ordinance, showing how open space is to be preserved. The purpose of the cluster plan is to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the Land Use Ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements (i. e. lot size, frontage including zero lot line development) to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances. The Planning Board may allow conventional subdivision development if clustered development is determined not to be feasible or not to offer open space advantages.

## B. Application Procedure

The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this Ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features (i. e. significant agricultural and forest land and stream corridors) without increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of this Ordinance, and have an area sui table for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats, important agricultural and forest land, moderate-to-high yield aquifers, and important natural or historic sites identified by the Comprehensive Plan as worthy of preservation.

Within ten days of receiving the application, the Board shall invite comments on the application from Selectmen, other appropriate town officials and abutters. Within thirty days of receiving the application, the Board shall determine whether to require that the subdivision be developed in accordance with the cluster standards of this section.

## C. Basic Requirements for Cluster Developments

1. Cluster Developments shall meet all requirements of this Ordinance.
2. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:



- a. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
  - b. Portions of the lot shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - i. slopes greater than 20%
    - ii. organic soils
    - iii. wetlands soils
  - d. Portions of the lot subject to rights of way.
  - e. Portions of the lot located in the resource protection zone.
  - f. Portions of the lot covered by surface water.
3. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the Land Use Ordinance. No building shall be sited on slopes steeper than 20%, or within 75 feet of any water body or wetland.
  4. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the Land Use Ordinance. No less than 30% of the reserved open space shall be usable open space.
  5. Every building lot that is reduced in area below the amount normally required shall be within 1000 feet of the common land.
  6. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
  7. Shore frontage shall not be reduced below the minimum normally required by the Land Use Ordinance.
  8. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

## ARTICLE 11 - PERFORMANCE GUARANTEE S

With submittal of the application for Final Plan approval, the Board may require the subdivider to provide a performance guarantee 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.

## ARTICLE 12 - WAIVERS

- 12.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance.
- 12.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance, and further provided the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.
- 12.3 In granting waivers to any of this Ordinance in accordance with Sections 12.1 and 12.2, the Board shall require such conditions as will assure the purposes of this Ordinance are met.
- 12.4 Waivers to be shown on Final Plan

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan. to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## ARTICLE 13 - APPEALS

- 13.1 An aggrieved party may appeal any decision of the Board under this Ordinance to the Board of Appeals, within thirty days of the date of the decision.

Derivation: Town Meeting June 9, 2009

Subdivision Ordinance Town of Clinton Article 13 – Appeals Section 13.1

Replaced the words "Kennebec County Superior Court" with "Board of Appeals".

STATE OF MAINE  
MUNICIPALITY OF CLINTON PLANNING BOARD

DATE: \_\_\_\_\_  
FEE: \_\_\_\_\_  
BY: \_\_\_\_\_  
APPLICATION  
NUMBER: \_\_\_\_\_

**APPLICATION FOR SUBDIVISION APPROVAL**

Applicant:

Name: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_

Interest in Property: \_\_\_\_\_

Interest in abutting property, if any: \_\_\_\_\_

Owner

Name: \_\_\_\_\_ Tel: \_\_\_\_\_

Address:

Name of Project:

Type of Proposed Activity:

- ☐ Minor Subdivision Review
- ☐ Major Subdivision Review – Preliminary Plan Review
- ☐ Site Plan Review
- ☐ Other \_\_\_\_\_

Project Type:

- ☐ Single Family      ☐ Multi-Family      ☐ Condominium      ☐ Other

Location:

Street Address: \_\_\_\_\_

Registry of Deeds: Book \_\_\_\_\_

Page \_\_\_\_\_

Assessor's Office: Map \_\_\_\_\_

Lot \_\_\_\_\_

Other Project Information

Size of Parcel (acres) \_\_\_\_\_

Zoning District(s) \_\_\_\_\_

Proposed # of Lots: \_\_\_\_\_

Proposed # of Buildings: \_\_\_\_\_

Proposed # of Dwelling Units: \_\_\_\_\_

Does the applicant intend to request any waivers of Subdivision or Zoning Ordinance Provisions?

☐ No

☐ Yes

If yes, list the reasons why \_\_\_\_\_

Name and Address of Applicant's Engineer, Land Surveyor or Planner: \_\_\_\_\_

The undersigned, being the applicant, owner or legally authorized representative, states that all information contained in this application is true and correct to the best of his/her knowledge and submits the information for review by the town and in accordance with applicable ordinances, statutes and regulations of the Town, State and Federal governments.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant/Owner/Representative





**TOWN OF CLINTON  
ADULT-ONLY BUSINESSES ORDINANCE**

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# **TOWN OF CLINTON**

## **ADULT-ONLY BUSINESSES ORDINANCE**

### **Section I. Findings**

The Citizens of the Town of Clinton believe that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. They have observed that in many communities throughout this country the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. An ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

### **Section II. Purpose**

The regulations of this Ordinance are not directed at the content of speech but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Ordinance is to regulate the place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses, and to prevent their location in proximity to residences, day care centers, Schools, houses of worship, public parks or recreational areas. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas of the Town at large. The purpose of this Ordinance is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation, while providing a reasonable opportunity for such businesses to exist.

### **Section III. Definitions**

The following terms as used in this Ordinance and for the purpose of the Ordinance have the meanings to them below:

- A. "Adult amusement store" means an establishment having as a substantial or significant portion of its sales or stock in trade, erotic material, or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based on its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment's purpose is to purvey such material.
- B. "Adult motion picture theater," means an enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons therein.
- C. "Adult entertainment cabaret," means a public or private establishment which features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

**TOWN OF CLINTON  
ADULT-ONLY BUSINESSES ORDINANCE**

- D. "Adult spa," means an establishment or place primarily in the business of providing services of an erotic nature.
- E. "Sexually oriented business," means Adult amusement stores, Adult movie theaters, Adult entertainment cabarets, or Adult spas, as defined herein, or any business where erotic materials and activities are displayed, depicted, described or simulated as a regular and substantial part of its operation. This includes any business which incorporates full or partial nudity, such as topless bars and topless coffee shops.
- F. "Residence," means any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or a mobile home.
- G. "Specified criminal activity," means a criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:
- (1) less than two (2) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;
  - (2) less than five (5) years have elapsed since the date of conviction or the date of release from confinement or probation imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;
  - (3) less than (5) years have elapsed since the date of the last conviction or the date of release from confinement or probation imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

# **TOWN OF CLINTON**

## **ADULT-ONLY BUSINESSES ORDINANCE**

### **Section IV. License Required**

A person or persons wishing to operate a sexually oriented business shall obtain an annual license (a) prior to opening the person's establishment, and (b) prior to expiration of the current annual license. A license issued under this Ordinance does not eliminate the requirements of any other Ordinance in Clinton including the Site Review Ordinance.

### **Section V. Application; Investigation and Issuance of License**

#### **1. Application.** An applicant for sexually oriented business license shall:

- A. Complete and file an application prescribed by the Planning Board;
- B. Deposit a license fee of \$1,000 and a processing fee of \$250 in advance with the Town Clerk or the Code Officer. The amount of these fees may be amended by the Board of Selectmen from time to time.
- C. Submit the completed application to the Planning Board through the Code Enforcement Officer, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
- D. File a sworn affidavit, which states the names of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
- E. File the release authorized by 16 M.R.S.A, Section 620(6) (Criminal History Record, Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
- F. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;
- G. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers.
- H. Submit evidence of compliance with Section X of this Ordinance and evidence that there is no basis for denial of a license to applicant under the standards listed in Section VI of this Ordinance.



## **TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE**

- 2. Investigation of applicant, officers.** Upon receipt of an application or notice of a change of the owners, officers, managers or partners of the applicant:
- A. The Code Officer, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town Manager, and the Planning Board. The Code Officer shall also immediately consult with the Chairman of the Planning Board and arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least 10 days prior to the public hearing before the Planning Board. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from the Town officials, the Code Officer shall forward the application and other documents to the Planning Board for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Code Officer and a decision shall be made within fifteen (15) business days thereafter.
  - B. The Code Enforcement Officer; within fifteen days of receipt of the application, shall inspect the location or proposed location and construction drawings to determine whether the applicant's proposed plan satisfies the setback and construction requirements of this ordinance and then report findings in writing to the Planning Board. The Code Enforcement Officer shall enforce the provisions of all the applicable Town Ordinances and State Laws as indicated in accordance with 30-A M.R.S.A. 4452.
  - C. The Code Enforcement Officer with the help of the Town Police Chief, shall investigate the applicant, including the criminal history record information required under Section V (1) (E), and then report findings in writing to the Planning Board, and
  - D. The Code Enforcement Officer, within fifteen days of receipt of the application, shall verify that the proposed premises of the establishment will comply with Section X and with all other applicable State and Town laws and land use codes of the Town and then report findings in writing to the Planning Board. The Code Officer will also verify whether or not other permitting under local Ordinances and state laws is required in addition to verification for compliance.
- 3. Issuance of license.** The Planning Board, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Ordinance. The license shall be issued upon determination by the Planning Board, based upon the record, including evidence and testimony at the public hearing, that the applicant meets the requirements of this Ordinance. The license may not be transferred or assigned.

### **Section VI. Standards of Denial**

An application for a sexually oriented business license shall be denied in the following circumstances:

- A. The applicant is a corporation or other legal entity that is not authorized to do business in the State of Maine;
- B. The applicant is an individual who is less than 18 years of age;



## **TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE**

- C. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required that is reasonably necessary to determine whether the license can be issued;
- D. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
- E. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has had a license granted pursuant to this Ordinance or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
- F. The applicant, if an individual, or any person having an ownership or management interest, if a corporation or other legal entity, has committed any Specified Criminal Activity as defined herein;
- G. The site on which the sexually oriented business is proposed is a prohibited site under Section X, or
- H. The application in any other way fails to meet the requirements of this Ordinance.

### **Section VII. Standards for Suspension; Revocation**

A sexually oriented business license may be suspended or revoked by the Planning Board after notice and hearing upon a finding that the licensee has violated any provision of this Ordinance. Providing false or erroneous information in an application shall be a reason for revoking or suspending a permit.

### **Section VIII. Age Restriction**

No sexually oriented business may permit any person under the age of 18 years into the premises in which the sexually oriented business is located.

### **Section IX. Prominent Display of License; Price Charges and Names of Owners or Officers**

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licenses must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices charged for all food, beverages, goods, wares, merchandise or services offered by the business unless the price is conspicuously displayed on the individual product.

## **TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE**

### **Section X. Prohibited Sites; Site Requirements**

1. A sexually oriented business may only be located within a Commercial or Industrial Commercial zone.
2. A sexually oriented business may not be sited within 1,000 feet of the closest part of the structure of a business which caters to the general public or 1,500 feet of the closest part of the structure of any of the following:
  - A. A church, synagogue or other house of religious worship;
  - B. A public or private elementary or secondary school;
  - C. A day care facility;
  - D. A public park or public recreational facility;
  - E. Any residence on adjacent property, excepting the owner or proprietor; the distance cited in this section shall be measured between the closest edge of the structure of the sexually oriented business and the closest edge of the structure of the use listed (A) through (E) above.
3. A sexually oriented business will be required to construct a visual barrier around the sides of the business as required by the Planning Board.
4. It shall be unlawful for any person to cause or permit the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within one thousand five hundred (1,500) feet of another sexually oriented business.
5. It shall be unlawful for any person to cause or permit the operation or establishment of more than one sexually oriented business in the same building, structure, or portion thereof.

### **Section XI. Signs and Exterior Layout of Sexually Oriented Businesses**

1. Sexually Oriented Businesses shall have an 8.5 inch by 11 inch sign at each entrance stating "Under 18 not admitted" or similar wording accepted by the Planning Board.
2. Sexually Oriented Businesses may have an 8.5 inch by 11 inch sign at entrances listing business hours, and appropriately posted signs, with letters no larger than 3 inches high, stating "Entrance", "Parking", "No Loitering" or other wording approved by the Planning Board.
3. Sexually Oriented Businesses shall have only one exterior identification sign.
  - A. The sign shall contain only the name of the establishment and "XXX" or the type of business as defined in Section III above.
  - B. The sign may not contain any other symbols or illustrations.

## **TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE**

- C. The sign must meet the approval of the Planning Board, who may require changes if they believe the proposed sign would be offensive to a significant number of Clinton residents.
  - D. The exterior dimension of the sign shall not exceed 30 square feet.
  - E. The sign may be two sided.
  - F. The sign may be unlit, internally lit, or lit with spotlights.
  - G. The lights may not blink.
  - H. The bottom of the sign may not be more than 10 feet above grade.
  - I. The top of the sign may not be more than 15 feet above grade.
4. No signs or symbols, except as permitted in Section XI, paragraphs 1 through 3 above, shall be visible from the exterior of the establishment.
5. Exterior lights shall be used for necessary illumination; they shall not blink nor be so bright as to unduly disturb neighbors or passersby, as determined by the Planning Board.

### **Section XII. Prohibited Activities**

- A. All acts of public indecency, as defined in 17-A M.R.S.A., Section 854, are prohibited in sexually oriented businesses.
- B. All other acts prohibited by applicable ordinances or laws.
- C. No alcoholic beverages allowed on the premises.
- D. The sexually oriented business hours of operation will be allowed anytime during the hours of 8:00 am – 8:00 pm - Monday - Saturday.

### **Section XIII. Enforcement**

A violation of this Ordinance is a civil violation and the civil penalties and remedies under Section XV shall apply. The owner of the premises on or in which the sexually oriented business is located, who is not the licensee of the sexually oriented business, is jointly and severally liable with the licensee for any violation of Sections X to XIII. The Ordinance shall be enforced by the Code Enforcement Officer, the Planning Board, and any law enforcement officials having jurisdiction within the Town of Clinton. If court action is required to enforce this Ordinance, the Town shall be awarded its enforcement costs, including its reasonable attorney's fees.

## **TOWN OF CLINTON ADULT-ONLY BUSINESSES ORDINANCE**

### **Section XIV. Penalties**

Violation of this Ordinance shall result in a penalty of \$100.00 per day, beginning on the date a notice of violation from the Code Enforcement Officer is mailed to the Applicant at the address contained in Town records. If the violation is not remedied within ten days of notice being sent, the Code Enforcement Officer may send a second notice. Violation of this Ordinance, after sending of the second notice, shall result in a penalty of \$500.00 per day. Remedying a violation does not prohibit the Planning Board from suspending the license as provided in Section VII, "Standards for Suspension, Revocation".

The amount of these penalty fees may be amended by the Board of Selectmen from time to time.

### **Section XV. Severability**

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

### **Section XVI. Conflict 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 apply.

### **Section XVII. Appeals**

An appeal from any final licensing, denial, suspension or revocation decision of the Planning Board may be taken by an aggrieved party to the Clinton Appeals Board within 30 days of the decision. The decision of the Clinton Appeals Board may be taken to Superior Court in accordance with the provisions of Rule 80B of the Maine Rules of Civil Procedure. Service of Process shall be served on the Town Clerk. The Town shall file its responsive pleadings and record of proceedings with the Court not later than ten (10) business days after service of the summons and complaint. Additionally, the Town shall submit its responsive brief within fourteen (14) days after receipt of the plaintiff's brief, and shall move for an expedited hearing. All enforcement action, if any, shall be stayed during the pendency of the Rule 80B appeal.

### **Section XVIII. Effective Date**

This Ordinance shall become effective immediately after approval by the voters of the Town of Clinton.







**TOWN OF CLINTON**  
**MANDATORY RECYCLING ORDINANCE**

Section 1. This Ordinance shall be known and be cited as the "Mandatory Recycling Ordinance of the Town of Clinton, Maine."

Section 2. Purpose and Authority

1. Declaration of Policy. This ordinance is designed to control the disposal and reuse and recycling of solid waste material in the Town of Clinton by providing for the establishment and enforcement of rules and establishing limitations and prohibitions to protect the health, safety and welfare of the citizens of Clinton and to protect the environment and natural resources of the Town.
2. Authority of this Ordinance is Maine Revised Statutes Annotated, Title 38, Section 1305.

Section 3. Rules for Governing Solid Waste Management

1. The Selectmen are hereby granted to establish, and amend operating rules for all municipal waste collection, transfer, reuse, recycling and disposal systems and facilities. The Rules shall be reviewed and revised as required to satisfy the needs of the Municipality, State and Federal laws and regulations. The Rules shall include the operating hours of the facility. No person shall use the facility outside of the set hours of operation. Rules shall be displayed at the Transfer Station and Town Office.

Section 4. Permits Required

1. The Clinton/Benton Transfer Station Recycling Center is operated for the benefit of Clinton and Benton residents and commercial establishments having operating facilities on property within the Towns of Clinton and Benton. Admission to the facility will be by permit or verbal permission only. Permits will be issued upon application to the Transfer Station Manager.
2. Permits must be displayed on vehicles to gain access to the facility.
3. Permits may be revoked by the Selectmen following notice and hearing for violation of the Ordinance or rules.
4. Deposition of trash at locations, sites or areas within the Town which have not been designated as an acceptable facility or site by the Selectmen is a violation of this Ordinance.

Section 5. The use of the facility by any person shall be at the strict direction of the Transfer Station Manager and his staff. No person shall violate any directives of the Manager or rules set forth by the selectmen. If any person refuses to obey any of the directives or rules, the Manager shall have the authority to refuse access to the facility to that person until the person complies with the directives and rules or until the selectmen have had the opportunity to hear the complaints.

Section 6. Hazardous and Special Wastes Prohibited

1. Hazardous and Special Wastes are as designated by the General Rules.
2. Hazardous and Special Wastes shall not be delivered, dumped or disposed at the Transfer station (See Residents Guidelines).
3. If any such waste is deposited at the facility, the clean up and all costs associated with proper disposal shall be borne by the person responsible for the deposition.

Section 7. The Selectmen have the right to:

1. Set standards on the acceptance' of wastes generated by businesses which waste is not similar to General Refuse as defined herein.
2. Refuse to accept industrial wastes which waste is not similar to General Refuse.

Section 8 Recycling Required

1. Solid wastes generated within the Towns of Clinton and Benton shall be separated into recyclables at the Clinton/Benton Transfer Station Recycling Center.
2. At a minimum, the following components will be separated:

– corrugated cardboard	- tin cans
– newsprint	- aluminum cans
– glass	- plastic
3. The selectmen shall have the authority to designate additional recyclable components by rule.

Section 9.

Waste Deposition

1. Wastes will be deposited in appropriate areas designated by signs on-site and by the transfer station staff. At a minimum, the following areas are provided for waste deposition:
  - a. recycling area
  - b. compactor area
  - c. white goods storage
  - d. tire storage area
  - e. burn area
2. Recyclables: Recyclables shall be separated and handled according to rules.
3. General Refuse: General refuse or waste shall be in clear plastic bags whenever delivered to the transfer station.
4. White Goods/Metals: White goods shall be deposited at the storage area so as not to block access to the container. Doors on refrigerators and freezers shall be removed prior to placement on-site. Products shall be further segregated within the storage area by director of transfer station staff.
5. Tires: Tires shall be piled neatly at the storage area so as not to block access to the pile. Wheel rims shall be removed from all tires prior to placement on-site.

Section 10.

Fees

The Selectmen shall establish fees by rule for the deposition of:

1. White goods and/or appliances, furniture and televisions
2. Other metals as required
3. Tires
4. Trash

Section 11.

Violations, Enforcement and Penalties

1. The Police Department of the Town of Clinton shall enforce this Ordinance.
2. Any person convicted of a violation of this Ordinance or rules adopted pursuant hereto shall be Subject to a fine of not less than \$100 or more than \$500 for each occurrence.
3. The person so convicted shall also be liable for legal expenses incurred by the Town as well as costs to correct the violation.

Section 12.     Validity and Conflict of Ordinances

1.     If any section, subsection, paragraph, sentence, phrase, or word of this Ordinance is found to be invalid, unconstitutional, or inapplicable, it shall not affect or impair the remaining provisions of this Ordinance.
2.     If this Ordinance conflicts with other town ordinances, then the strictest provisions shall apply
3.     Provisions of federal and state laws and rules adopted pursuant thereto shall govern if such provisions are more stringent than the provisions of this ordinance.

Section 13.     Definitions

1.     Transfer Station Manager. The person employed by the Town to supervise the solid waste facility and operate any necessary equipment. The transfer station staff will likewise be under his or her direction.
2.     Facility. The Clinton/Benton Transfer Station Recycling Center.
3.     Hazardous Waste. Shall include any material or waste which the federal and/or state government has determined to be hazardous and which is brought to the facility.
4.     Person. Shall include, but not limited to, individuals, partnerships, corporations and their agents.
5.     Selectmen. The Clinton Board of Selectmen
6.     Special Waste. Waste designated by the Maine Board of Environmental Protection as Special Wastes.
7.     General Refuse or Waste. Ordinary solid wastes generated by normal household operations except: (1) wastes identified *in* this Ordinance; or (2) other wastes identified by rules which include but are not limited to white goods, appliances, furniture, mattresses, tires, construction and demolition debris, stumps, brush, leaves, and rock and masonry materials.
8.     Town. Town of Clinton, Maine.

Section 14.     Effective Date

The Ordinance shall take effect on January 1, 1992



## Clinton Solid Waste General Rules

I. The following wastes are prohibited from the Clinton/Benton Transfer Station Recycling Center:

A. Deposit of Refuse

1. Prohibited Wastes: The following of wastes which cannot be accepted by the Clinton/Benton Transfer Station Recycling Center.
  - a. Hazardous waste which for the purposes of this facility shall include substances listed by the EPA and/or DEP as hazardous wastes or which are flammable, toxic, corrosive, or reactive by themselves or in combination with other wastes;
  - b. Hazardous substance containers unless adequately cleaned and approved by the attendant;
  - c. Large pressured containers (over one quart capacity);
  - d. Liquid or viscous wastes
  - e. Animal wastes or carcasses, manure, or crop residues
  - f. Automobile or vehicle bodies or parts from same, such as vehicle fuel tanks, etc...
  - g. Sewage treatment plant and septic tank sludge or residues;
  - h. Asbestos;
  - i. Special
    1. incinerator ash;
    2. industrial and industrial processed waste;
    3. wastewater treatment plant sludge, paper mill sludge and other sludge waste;
    4. debris and residuals from nonhazardous chemical spills and cleanup of those spills;
    5. contaminated soils and dredge spoils;
    6. asbestos and asbestos-containing wastes;
    7. sand blast grit and non-liquid paint waste;
    8. medical and other potentially infectious or pathogenic waste;
    9. high and low pH waste;
    10. spent filter media residue;
    11. shredder residue;
    12. other waste designated by the Board, by rule.

II. Waste shall be separated into the Following categories:

A. Wastes to be separated: Wastes requiring separation from the general refuse are listed below:

1. White goods, major appliances and bulky metals including wheel rims;
2. Furniture and mattresses;
3. Vehicular tires which must have rims removed and be reasonably clean;
4. Clean wood waste includes brush, limbs, scrap lumber and clean wood from demolition projects;
5. Inert fill, includes cured concrete, cinder blocks, bricks, cured bituminous concrete, stone, and similar substances which do not leach or degrade;
6. Recyclables as designated in Section IV.

III. Fees

The following fees shall be charged for the deposition of the designated wastes:

1. Commercial Haulers:	Recyclables Compacted	No Charge
	Waste Un-compacted	\$13/yd
	Waste	\$ 9/yd
2. Business Accounts	Recyclables	No Charge
	Compacted Waste	\$4.25/yd
	Un-compacted Waste	\$3.00/yd
3.	White goods, appliances, furniture, TV sets	\$5.00 each
4.	Tires under 17"	\$2.00 each
	Tires over 17"	\$5.00 each

IV. The following components of solid waste shall be separated and recycled. The recyclables shall be handled as noted.

1. Corrugated Cardboard -shall be dry, un-waxed and if possible, flattened.
2. Newsprint – may be dry and include inserts.

3. Glass-no tempered glass, ceramics, window glass or light bulbs. Shall be separated into clear, brown and green. Rinsed, with metal lids and neck rings removed. Labels are permitted.
4. HDPE Plastics - #2 – Milk jugs, detergent bottles, and similar semi-rigid plastic. Containers shall be empty and caps removed.
5. PET Plastics - #1 – soda bottles and similar clear, smooth plastic. Containers shall be empty and caps removed.
6. Tin & Aluminum cans. Shall be clean, with labels removed.
7. Cloth materials. Please wash clean if possible.

V. Waste shall be deposited in the area designated for each type.

VI. The Transfer Station Manager shall have final say in the deposition of all wastes. The Manager's decision may be appealed to the Selectmen; however, the waste in question shall not be deposited at the site until resolved by the Selectmen.

VII. The following rules are enacted to protect the health and safety of the public:

- A. Unauthorized or untrained persons shall not use equipment.
- B. Do not salvage items from the facility without permission from the Transfer Station Manager.
- C. Stay clear of moving equipment.
- D. Unauthorized persons shall not enter buildings or material containers.
- E. Unauthorized persons shall not loiter in or around the transfer station.

VIII. The Transfer Station hours of operation Shall be:

Monday	9:00 am - 5:00 pm
Tuesday	Closed
Wednesday	9:00 am - 5:00 pm
Thursday	9:00 am - 5:00 pm
Friday	9:00 am - 5:00 pm
Saturday	8:00 am - 5:00 pm
Sunday	Closed
Closed	HOLIDAYS

## **Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Clinton**

### **Section 1. Authority.**

This ordinance is enacted pursuant to the Marijuana Legalization Act, 7 M.R.S.A. c. 417; and Municipal Home Rule Authority, Me. Const., art. VIII, pt. 2; and 30-A M.R.S.A. § 3001.

### **Section 2. Definitions.**

For purposes of this ordinance, retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, retail marijuana products manufacturing facilities and retail marijuana testing facilities, and retail marijuana social clubs are defined as set forth in 7 M.R.S.A. § 2442.

### **Section 3. Prohibition on Retail Marijuana Establishments and Retail Marijuana Social Clubs.**

Retail marijuana establishments, including retail marijuana stores, retail marijuana cultivation facilities, and retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in the municipality.

No person or organization shall develop or operate a business that engages in the cultivation and/or the retail or wholesale sales of a retail marijuana Act, 22 M.R.S.A. c 558-C. Such retail marijuana establishments shall be deemed a prohibited use pursuant to the Town of Clinton Land Use Ordinance, Section 3.

Nothing in this ordinance is intended to prohibit any lawful use, possession or conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. c. 558-c.

### **Section 4. Effective date; duration.**

This ordinance shall take effect immediately upon enactment by the municipal legislative body unless otherwise provided and shall remain in effect until it is amended or repealed.

### **Section 5. Penalties.**

This ordinance shall be enforced by the municipal officers or their designee. Violations of this ordinance shall be subject to the enforcement and penalty provisions of 3-A M.R.S.A. §4452.

Approved: June 13, 2017

## **Park Use Hours Ordinance**

### **SECTION A. River Access Park, Main Street:**

Use of River Access Park is from 6:00 a.m. to 10:00 p.m. for the free and peaceful enjoyment of all. No person(s) shall be loitering within the confines of River Access Park. Park use during off hours is limited to participation in a community or otherwise authorized\* activity/event. Private events that go later than 10:00 p.m. require an approved application. Public events sponsored by a town Department/Board do not require an application. There will be no overnight parking.

### **SECTION B. Old Mill Park, Main Street:**

Use of Old Mill Park is from 6:00 a.m. to 10:00 p.m. for the free and peaceful enjoyment of all. No person(s) shall be loitering within the confines of Old Mill Park. Park use during off hours is limited to participation in a community or otherwise authorized\* activity/event -or- after 10:00 p.m. (with no special request/permission) as long as lighting is on. Private events that go later than 10:00 p.m. require an approved application. Public events sponsored by a town Department/Board do not require an application. There will be not overnight parking.

### **SECTION C. Cindy Blodgett Park, 27 Baker Street:**

Use of Cindy Blodgett Park is from 6:00 a.m. to 10:00 p.m. for the free and peaceful enjoyment of all. No person(s) shall be loitering with the confines of Cindy Blodgett Park. Park use during off hour is limited to participation in a community or otherwise authorized\* activity/event -or- after 10:00 p.m. (with no special request/permission) as long as lighting is on. Private events that go later than 10:00 p.m. require an approved application. Public events sponsored by a town Department/Board do not require an application. There will be no overnight parking.

### **SECTION D. Gordon Field, Morrison Avenue:**

Use of Gordon Field is open one hour before sunrise and one hour after sunset for the free and peaceful enjoyment of all. No person(s) or vehicles(s) shall be within the confines of Gordon Field unless participating in a community or otherwise authorized\* activity/event. There will be no overnight parking.



## **SECTION E. Morrison Avenue Recreation Area (MARA):**

Use of Morrison Avenue Recreation Area (MARA) field is open one hour before sunrise and one hour after sunset for the free and peaceful enjoyment of all. No person(s) or vehicle(s) shall be within the confines of Morrison Avenue Recreation Area (MARA) field unless participating in a community or otherwise authorized\* activity/event. There will be no overnight parking.

## **SECTION F. Enforcement:**

A person who violates this Ordinance is deemed to be a trespasser against the Town. Law Enforcement Officers are authorized to: remove a trespasser from Town property; serve a trespass warning or notice to prevent a future trespass; and/or, initiate legal action against the trespasser based on a criminal trespass offense under State criminal code. In the event of damage inflicted to Town property, the trespasser is also subject to legal action based on a criminal mischief offense under the State criminal code, for which the Town will seek recovery or restitution for such damage.

\*AUTHORIZED ACTIVITIES OR EVENTS INCLUDE THOSE SANCTIONED BY A BOARD OR COMMITTEE OR THE TOWN OF CLINTON, THE CLINTON POLICE DEPARTMENT OR THE CLINTON FIRE DEPARTMENT.

Approved: June 13, 2017

**TOWN OF CLINTON, MAINE  
ORDINANCE  
RESTRICTING VEHICLE WEIGHT ON POSTED WAYS**

**1. Purpose and Authority:** The purpose of this "Ordinance Restricting Vehicle Weight on Posted Ways" (hereinafter, the "Ordinance") is to prevent damage to town ways and bridges in the Town of Clinton which may be caused by vehicles of excessive weight, to lessen safety hazards and the risk of injury to the traveling public, to extend the life expectancy of town ways and bridges, and to reduce the public expense of their maintenance and repair. This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3009 and 29-A M.R.S.A. §§ 2395 and 2388.

**2. Definitions:** The definitions contained in Title 29-A M.R.S.A. shall govern the construction of words contained in this Ordinance. Any words not defined therein shall be given their common and ordinary meaning.

**3. Restrictions and Notices:** The municipal officers (Board of Selectmen) may, either permanently or seasonally, impose such restrictions on the gross registered weight of vehicles as may, in their judgment, be necessary to protect the traveling public and prevent abuse of the highways, and designate the town ways and bridges to which the restrictions shall apply.

Whenever notice has been posted as provided herein, no person may thereafter operate any vehicle with a gross registered weight in excess of the restriction during any applicable period on any way or bridge so posted unless that person or vehicle is exempt as provided herein, or holds a valid permit issued in paragraph 6.

The notice shall contain, at a minimum, the following information: the name of the way or bridge, the gross registered weight limit, the time period during which the restriction applies, the date on which the notice was posted, and the signature of the Chair, Board of Selectmen, or if designated by majority vote of the Board of Selectmen, the signature of the Road Commissioner. The notice shall be conspicuously posted at each end of the restricted portion of the way or bridge in a location clearly visible from the traveled way.

Whenever a restriction expires or is lifted, the notices shall be removed wherever posted. Whenever a restriction is revised or extended, existing notices shall be removed and replaced with new notices. No person may remove, obscure or otherwise tamper with any notice so posted except as provided herein

**4. Streets/Roads to be Posted:** The following streets and roads will be posted seasonally: Battleridge Road, Beaudoin Road, Bellsqueeze Road, Bush Road, Church Street, Dean Road, Dixon Road, Goodrich Road, Gustafson Road, High Street, Hill Road, Hillcrest Drive, Holt Road, Horseback Road, Johnson Flat Road, Road, McKenney Road, McNally Road, Morrison Avenue, Mutton Lane, Pearl Street, Peavey Road, Pishon Ferry Road, Railroad Street, River Road, Rogers Road, Seabasticook Drive, Silver Street, Spring Street, Tardiff Road, True Road, Water Street, and Wright Road.

**5. Exemptions:** The following vehicles are exempt under State law:

Any vehicle delivering home heating fuel or organic animal bedding and operating in accordance with a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4) and, when necessary during a period of drought emergency declared by the governor, any vehicle transporting well-drilling equipment for the purpose of drilling a replacement well or for improving an existing well on property where that well is no longer supplying sufficient water for residential or agricultural purpose and operating in accordance with

a permit issued by the MDOT under 29-A M.R.S.A. § 2395 (4-A).

The following vehicles are also exempt under the specific provisions of this ordinance:

1. Any vehicle or combination of vehicles registered for a gross weight of 23,000 pounds or less.
2. Any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and traveling without a load other than tools or equipment necessary for the proper operation of the vehicle. This exemption does not apply to special mobile equipment. It shall be a defense to a violation of this sub-section if the combined weight of any vehicle or combination of vehicles registered for a gross weight in excess of 23,000 pounds and its load is in fact less than 23,000 pounds.
3. Any vehicle engaged in highway operation, repair, or maintenance under the direction of the Clinton Road Commissioner/Town Maintenance Contractor or the Maine Department of Transportation.
4. Authorized emergency vehicles as defined in 29-A M.R.S.A. § 2054, school buses, a wrecker towing a disabled vehicle of legal weight from a posted highway, and vehicles with three axles or less under the direction of a public utility and engaged in utility infrastructure maintenance or repair.
5. Any two axle vehicles registered for a gross weight in excess of 23,000 pounds and less than or equal to 34,000 pounds that are carrying any of the Special Commodities may operate without a permit. Special Commodities includes any of the following:
  - a. Home delivered heating fuel (oil, gas, coal, stove size wood that is less than 36" in length, propane and wood pellets);
  - b. Petroleum products;
  - c. Groceries;
  - d. Bulk milk;
  - e. Solid waste;
  - f. Animal bedding;
  - g. Returnable beverage containers;
  - h. Sewage from private septic tanks or porta-potties; or
  - i. Medical gases.

**6. Permits:** The owner or operator of any vehicle not otherwise exempt as provided herein may apply in writing to the municipal officers (Board of Selectmen) for a permit to operate on a posted way or bridge notwithstanding the restriction. The Board of Selectmen may issue a permit only upon all of the following factors:

- a. No other route is reasonably available to the applicant;
- b. It is a matter of economic necessity and not mere convenience that the applicant use the way or bridge; and
- c. The applicant has tendered cash, a bond or other suitable security running to the municipality in an amount sufficient, in the judgment of the municipal officers, to repair any damage to the way or bridge which may reasonably result from the applicant's use of same.

Even if the municipal officers (Board of Selectmen) make the foregoing findings, they need not issue a permit if they determine the applicant's use of the way or bridge could reasonably be expected to create or aggravate a safety hazard or cause substantial damage to a way or bridge maintained by the municipality. The municipal officers (Board of Selectmen) may also limit the number of permits issued or outstanding as may, in their judgment, be necessary to preserve and protect the ways and bridges.

In determining whether to issue a permit, the municipal officers (Board of Selectmen) shall consider the following factors:

- aa. the gross registered weight of the vehicle;
- bb. the current and anticipated condition of the way or bridge;
- cc. the number and frequency of vehicle trips proposed;
- dd. the cost and availability of material and equipment for repairs;
- ee. the extent of use by other exempt vehicles; and
- ff. such other circumstances as may, in their judgment, be relevant.

The municipal officers (Board of Selectmen) may issue permits subject to reasonable conditions, including but not limited to restrictions on the actual load weight and the number or frequency of vehicle trips, which shall be clearly noted on the permit.

**7. Administration and Enforcement:** This Ordinance shall be administered by municipal officials (Board of Selectmen) and may be enforced by the municipal officers (Board of Selectmen) and may be enforced by the municipal officers (Board of Selectmen) or their duly authorized designees: law enforcement officers, code enforcement officer, or road commissioner.

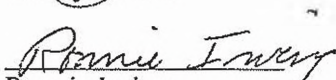
**8. Civil Penalties:** Any violation of this Ordinance shall be a civil violation subject to a civil penalty of not less than \$250.00 nor more than \$1,000.00. Each unlawful passage of a vehicle over a posted way or bridge is a separate violation. In addition to any civil penalty, the Town of Clinton may seek restitution for the cost of repairs to any damaged way or bridge and reasonable attorney fees and costs. Prosecution shall be in the name of the Town of Clinton and shall be brought in the Maine District Court.

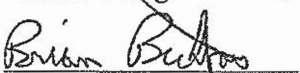
**9. Amendments:** This Ordinance may be amended by the municipal officers (Board of Selectmen) at any properly noticed meeting.

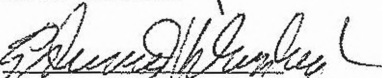
**10. Severability: Effective Date:** In the event any portion of this Ordinance is declared invalid by a court of competent jurisdiction, the remaining portions shall continue in full force and effect. This Ordinance shall become effective thirty (30) days after adoption by a majority of the municipal officers (Board of Selectmen).

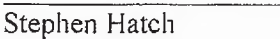
Adopted by the Municipal Officers (Board of Selectmen) of the Town of Clinton, Maine on June 9, 2008 and revised September 12, 2017 and November 28, 2017.

  
Jeffrey Towne

  
Ronnie Irving

  
Brian Bickford

  
Edward Blanchard

  
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## **TOWN OF CLINTON PROPERTY & BUILDING SAFETY MAINTENANCE ORDINANCE**

### **SECTION 1 AUTHORITY**

This ordinance is enacted pursuant to State law, Title 30-A Section 3001.

### **SECTION 2 SHORT TITLES**

This ordinance shall be known and cited as the "Property Maintenance Ordinance" of the Town of Clinton.

### **SECTION 3 PURPOSES**

The purpose of this Ordinance is to set a minimum standard for the maintenance of the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

### **SECTION 4 REQUIRED MAINTENANCE**

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary, and/or nuisance conditions (according to the nuisance definition found in State law Title 17, Section 2802 and as show in the Appendix) and to avoid any adverse effect on the value of adjoining properties or properties which can be viewed from a public way.

### **SECTION 5 GROUNDS MAINTENANCE STANDARDS**

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include containing: refuse, household trash, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber, inoperable machinery or part thereof, glass, unused and inoperable appliances, worn and unused furniture, and one or more junked and/or unserviceable vehicle(s), other than those licensed for storage according the State of Maine Automobile Graveyard & Junkyard Ordinance. Materials intended for the private use of the property owner may be stored on the property as long as such material is screened from the public way and from abutting properties and is not in violation with State Laws. Private use does not include resale.





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## **SECTION 6 MAINTENANCE AFTER CASUALTY DAMAGE**

Within a period of 60 days after casualty (see Appendix) damage to property grounds or structures, the owner shall cause or contract (see Appendix) for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The CEO may grant an extension under certain hardship condition (see Section 9).

## **SECTION 7 DANGEROUS BUILDINGS:**

**17 M.R.S. §§2851-2859 authorizes the municipal officers to determine a building or structure is “dangerous” and to order appropriate corrective action. The town shall retain all its rights and remedies. Other than in the case of a building which is so dangerous immediate court action is required, there is not express authority given to the CEO to act under this statute. However, if the CEO is asked to assist the municipal officers, this should be done in writing. Buildings or structures which can be dealt with under this statute must fit within one of the following categories:**

- **Structurally unsafe**
- **Unstable**
- **Unsanitary**
- **Constitutes a fire hazard**
- **Is unsuitable or improper for the use or occupancy to which it is put**
- **Constitutes a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence or abandonment or is otherwise dangerous to life or property**

## **SECTION 8 RESPONSIBILITIES**

Owners, operators, and occupants of properties in violation of this ordinance shall be jointly and severally liable for violations and for corrective actions required.

## **SECTION 9 ENFORCEMENT & PENALTIES**

The CEO shall notify the violator, serving a written notice by certified mail or by hand delivery. Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the receipt of the notice to correct the violation. In cases of an emergency health and/or safety violation, as determined by the CEO/LHO, the corrective action shall be taken immediately, not to exceed seven (7) days (max.). The violator may appeal the CEO's decision to the Board of Selectpersons, except for non-applicable health and safety violations. Appeals must be made within 10 working days of notification by the CEO of a violation. The number of days given for compliance shall start after the Board of Selectpersons has heard the appeal.



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## **SECTION 9 ENFORCEMENT & PENALTIES – continued**

If a violation is not corrected within the time allowed the Town shall pursue all remedies and relief available by law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in 30A MRSA Section 4452 currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. The Town shall retain all penalties set forth in this Ordinance. The CEO may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, in litigation in a higher court of law for example, the CEO shall first review the case with the Clinton Town Manager and Board of Selectpersons.

The CEO may offer one (1) special extension per person/per incident of up to 60 days to violators of this ordinance under certain hardship or extenuating circumstances. If a violation is discovered during winter months (November 1 – April 1) and if winter weather prevents the correction of a violation, an extension may be given. Cases of disability or financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation. These extensions for seasonal, disability, or financial hardship shall be at the discretion of the CEO.

## **SECTION 10 SEVERABILITY**

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

## **SECTION 11 CONFLICTS WITH OTHER LAWS**

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of the Ordinance shall be the one that is enforced.

## **SECTION 12 EFFECTIVE DATE**

This Ordinance shall be effective when approved by the votes of the Town of Clinton.



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## APPENDIX A DEFINITIONS

**Casualty** – Any unforeseeable, unintended accident affecting a property.

**Cause or Contract** – For this Ordinance, “cause or contract” as it appears in Section 5 includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

**Grounds** – The part of a property not covered by permanent structures.

**Junk** – for this Ordinance the term “junk” refers to dilapidated or discarded material or objects.

**Nuisance Condition** – This term has been defined by MRSA Title 17 Section 2802. It reads as follows: “The erection, continuance or use of any building or place for the exercise of a trade, employment or manufacture which, by noxious exhalations, offensive smells, or other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public, causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water, corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in Title 29A, Section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.”

**Occupant** – Any person living, sleeping, or having actual possession of a dwelling unit or rooming unit.

**Operator** – Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.



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**Owner** – Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof, or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.

**Property** – For this Ordinance the term shall be defined as any lot, plot, or parcel of land.

**Structure** – Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

**Unserviceable** – For the purposes of this Ordinance the Town of Clinton will rely on a Maine Supreme Court decision (Town of Pownal v. Emerson, 639 A.2d 619 (Me.1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2d, 445) which includes the following: “unserviceable means not ready for use or presently useable” as opposed to “incapable of being serviced.”

Adopted June 14, 2016

ATTESTED: A true copy



**Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES****CHAPTER 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES****TABLE OF CONTENTS**

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## Chapter 1000: GUIDELINES FOR MUNICIPAL SHORELAND ZONING ORDINANCES

### Shoreland Zoning Ordinance for the Municipality of Clinton, Maine

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
  - normal high-water line of any great pond or river,
  - upland edge of a coastal wetland, including all areas affected by tidal action, or
  - upland edge of a freshwater wetland,

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

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

#### 4. Effective Date

**A. Effective Date of Ordinance and Ordinance Amendments.** This Ordinance, which was adopted by the municipal legislative body on \_\_\_\_\_, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved.

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

**B. Sections 15(O) and 15(O-1).** Section 15(O) is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time Section 15(O-1) shall become effective. Until such time as Section 15(O) is repealed, Section 15(O-1) is not in effect.

5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
  - A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
    - (1) Resource Protection
    - (2) Limited Residential
    - (3) Limited Commercial
    - (4) General Development I
    - (5) General Development II
    - (6) Commercial Fisheries/Maritime Activities
    - (7) Stream Protection
  - B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
  - C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
  - D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.

**10. Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

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

**12. Non-conformance.**

**A. Purpose.** It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

**B. General**

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

**C. Non-conforming Structures**

- (1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with subparagraphs (a) and (b) below.

[Alternatively, a municipality may, by local ordinance, regulate expansions of non-conforming structures in accordance with Appendix A, *Alternative to 30% Expansion Rule Pursuant to 38 M.R.S.A Section 439-A*. In adopting the alternative provisions contained in Appendix A, a municipality may choose not to include the "special expansion allowance" provision contained in paragraphs (1-A), (1-B), and (1-C) of Appendix A.]

- (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 tributary stream or the upland edge of a wetland, that portion of the structure shall not be expanded, as measured in floor area or volume, by 30% or more, during the lifetime of the structure. If a replacement structure

conforms with the requirements of Section 12(C)(3), and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by 30% in floor area and volume since that date.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with Section 12(C)(1)(a) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.



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

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

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

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

- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

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

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

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

#### **D. Non-conforming Uses**

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(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 area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.

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

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

- (3) **Contiguous Lots - Vacant or Partially Built:** If two or more contiguous lots or parcels are in single or joint ownership of record at the time of or since adoption or amendment of this Ordinance, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons on 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 20,000 square feet of lot area; or
- (b) Any lots that do not meet the frontage and lot size requirements of Section 12(E)(3)(a) are reconfigured or combined so that each new lot contains at least 100 feet of shore frontage and 20,000 square feet of lot area.

### 13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed and areas which meet the criteria for the Limited Commercial, General Development I, 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 waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river,

and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

- (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
- (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 the period of normal 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 Districts, 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 Districts. This district includes areas of two or more contiguous acres in size devoted to a mix of residential and low intensity business and commercial uses. Industrial uses are prohibited.

**D. General Development I District.** The General Development I District includes the following types of existing, intensively developed areas:

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

- E. General Development II District.** The General Development II District includes the same types of areas as those listed for the General Development I District. The General Development II District, however, shall be applied to newly established General Development Districts where the pattern of development at the time of adoption is undeveloped or not as intensively developed as that of the General Development I District.

Portions of the General Development District I or II may also include residential development. However, no area shall be designated as a General Development I or II 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 that flow to great ponds classified GPA.

- F. Commercial Fisheries/Maritime Activities District.** The Commercial Fisheries/Maritime Activities District includes areas where the existing predominant pattern of development is consistent with the allowed uses for this district as indicated in the Table of Land Uses, Section 14, and other areas which are suitable for functionally water-dependent uses, taking into consideration such factors as:

- (1) Shelter from prevailing winds and waves;
- (2) Slope of the land within 250 feet, horizontal distance, of the shoreline;
- (3) Depth of the water within 150 feet, horizontal distance, of the shoreline;
- (4) Available support facilities including utilities and transportation facilities; and
- (5) Compatibility with adjacent upland uses.

- G. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

- 14. Table of Land Uses.** All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)



No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

GD General Development I and General Development II

LR - Limited Residential

CFMA - Commercial Fisheries/Maritime Activities

LC - Limited Commercial

SP - Stream Protection

**TABLE 1. LAND USES IN THE SHORELAND ZONE**

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

26. Road construction	PB	no <sup>8</sup>	PB	PB	PB	PB <sup>5</sup>
27. Land management roads	yes	PB	yes	yes	yes	yes
28. Parking facilities	no	no <sup>7</sup>	PB	PB	PB	PB <sup>5</sup>
29. Marinas	PB	no	PB	PB	PB	PB
30. Filling and earth moving of <10 cubic yards	CEO	CEO	yes	yes	yes	yes
31. Filling and earth moving of >10 cubic yards	PB	PB	CEO	CEO	CEO	CEO
32. Signs	yes	yes	yes	yes	yes	yes
33. Uses similar to allowed uses	CEO	CEO	CEO	CEO	CEO	CEO
34. Uses similar to uses requiring a CEO permit	CEO	CEO	CEO	CEO	CEO	CEO
35. Uses similar to uses requiring a PB permit	PB	PB	PB	PB	PB	PB

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

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

<sup>3</sup> In RP not allowed in areas so designated because of wildlife value.

<sup>4</sup> Provided that a variance from the setback requirement is obtained from the Board of Appeals.

<sup>5</sup> Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

<sup>6</sup> See further restrictions in Section 15( L)(2).

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

<sup>8</sup> Except as provided in Section 15(H)(4).

<sup>9</sup> Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

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

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

<sup>12</sup> Permit not required but must file a written "notice of intent to construct" with CEO.

NOTE: Item 17, in its entirety, should be deleted from Table 1 if a municipality elects not to regulate "piers, docks, wharfs, bridges and other structures and uses extending over or below the normal high-water line or within a wetland".

NOTE: A person performing any of the following activities shall require a permit from the Department of Environmental Protection, pursuant to 38 M.R.S.A. section 480-C, if the activity occurs in, on, over or adjacent to any freshwater or coastal wetland, great pond, river, stream or brook and operates in such a manner that material or soil may be washed into them:

- A. Dredging, bulldozing, removing or displacing soil, sand, vegetation or other materials;
- B. Draining or otherwise dewatering;
- C. Filling, including adding sand or other material to a sand dune; or
- D. Any construction or alteration of any permanent structure.

**15. Land Use Standards.** All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

**A. Minimum Lot Standards**

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	30,000	150
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	40,000	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas, Exclusive of Those Areas Zoned for Commercial Fisheries and Maritime Activities	40,000	200
(ii) Within the Shoreland Zone Adjacent to Tidal Areas Zoned for Commercial Fisheries and Maritime Activities	NONE	NONE
(iii) Within the Shoreland Zone Adjacent to Non-tidal Areas	60,000	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	40,000	200

- (2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.
- (3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.
- (4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.
- (5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.

#### **B. Principal and Accessory Structures**

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, except that in the General Development I District the setback from the normal high-water line shall be at least twenty five (25) feet, horizontal distance, and in the Commercial Fisheries/Maritime Activities District there shall be no minimum setback. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
- (b) All principal structures along Significant River Segments as listed in 38 M.R.S.A. section 437 (see Appendix B), shall be set back a minimum of one hundred and twenty-five (125) feet, horizontal distance, from the normal high-water line and shall be screened from the river by existing vegetation. This provision does not apply to structures related to hydropower facilities.
- (c) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant to its "Classification of Coastal Bluffs" and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a "highly unstable" or "unstable" bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified

Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.

- (d) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, Limited Commercial, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
- (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.
- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed, except in the General Development District adjacent to tidal waters and rivers that 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) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
  - (a) The site has been previously altered and an effective vegetated buffer does not exist;
  - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
  - (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
  - (d) The total height of the wall(s), in the aggregate, are no more than 24 inches;



- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
  - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
  - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
  - (iii) Only native species may be used to establish the buffer area;
  - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
  - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;
- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

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

- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Except in the General Development Districts and Commercial Fisheries/Maritime Activities District, 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.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

**E. Individual Private Campsites.** Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.

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

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

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments
- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

**G. Parking Areas**

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located, except that in the Commercial Fisheries/Maritime Activities District parking areas shall be set back at least twenty-five (25) feet, horizontal distance, from the shoreline. The setback requirement for parking areas serving public boat launching facilities in Districts other than the General Development I District and Commercial Fisheries/Maritime Activities District shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
  - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
  - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.

- (3) New permanent roads are not allowed within the shoreland zone along Significant River Segments except:
- (a) To provide access to structures or facilities within the zone; or
  - (b) When the applicant demonstrates that no reasonable alternative route exists outside the shoreland zone. When roads must be located within the shoreland zone they shall be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (4) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (5) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (6) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (7) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (8) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
- (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45



21 +

40

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

**I Signs.** The following provisions shall govern the use of signs in the Resource Protection, Stream Protection, Limited Residential and Limited Commercial Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed six (6) square feet in area and shall not exceed two (2) signs per premises. In the Limited Commercial District, however, such signs shall not exceed sixteen (16) square feet in area. Signs relating to goods or services not sold or rendered on the premises shall be prohibited.
- (2) Name signs are allowed, provided such signs shall not exceed two (2) signs per premises, and shall not exceed twelve (12) square feet in the aggregate.
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

**J. Storm Water Runoff**

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

**K. Septic Waste Disposal**

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

**L. Essential Services**

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be permitted within fifty (50) feet, horizontal distance, of any property line without written permission of the owner of such adjacent property.
- (3) Developers of new gravel pits along Significant River Segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than seventy-five (75) feet and screened from the river by existing vegetation.

- (4) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
  - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
  - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
  - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (5) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

#### **N. Agriculture**

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Livestock grazing associated with ongoing farm activities, and which are not in

conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

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**NOTE RELATING TO TIMBER HARVESTING STANDARDS:**

Title 38 MRSA section 438-B of the Mandatory Shoreland Zoning Act addresses timber harvesting and timber harvesting activities in shoreland areas. Section 438-B establishes three options from which each municipality may choose as the State moves toward a set of statewide timber harvesting standards in shoreland areas.

**Option 1:** The first option available to a municipality is the complete repeal of timber harvesting provisions from the shoreland zoning ordinance. Section 438-B(2) states:

A municipality may choose to have the statewide standards apply to timber harvesting and timber harvesting activities in that municipality by authorizing the repeal of all provisions within the municipal shoreland zoning ordinance that regulate timber harvesting and timber harvesting activities in shoreland areas and notifying the Director of the Bureau of Forestry within the Department of Conservation of the repeal. The authorization must specify a repeal date that is consistent with the effective date of the statewide timber harvesting standards. Then, beginning on the effective date of the statewide standards, the Bureau of Forestry will administer and enforce those standards within that municipality.

**Option 2:** The second option available to the municipality is the adoption of timber harvesting standards within the shoreland zoning ordinance that are identical to the statewide standards. Section 438-B(3) states:

A municipality may adopt an ordinance to regulate timber harvesting and timber harvesting activities that is identical to the statewide standards. A municipality that adopts an ordinance under this subsection may request the director of the Bureau of Forestry to administer and enforce the ordinance or to participate in joint administration and enforcement of the ordinance with the municipality beginning on the effective date of the statewide standards. This option retains local control over the administration and enforcement of timber harvesting in the shoreland zone, while receiving assistance and expertise from staff of the Bureau of Forestry. If the municipality requests joint responsibilities, the director and the municipality must enter into an agreement that delineates the administrative and enforcement duties of each. To continue to receive administrative and enforcement assistance from the Bureau of Forestry, a municipality must amend its ordinance as necessary to maintain identical provisions with the statewide standards.

**Option 3:** The third option is that a municipality may elect to simply retain its current timber harvesting standards. However, a municipality that retains an ordinance with provisions that differ from the statewide standards must administer and enforce that ordinance, and will not receive the assistance of the Bureau of Forestry. Furthermore, after the legislative effective date of the statewide standards, a municipality may not amend an ordinance regulating timber harvesting and timber harvesting activities in a manner that results in standards that are less stringent than or otherwise conflict with the statewide standards (Section 438-B(4)).

The event that triggers the effective date of the “statewide standards” has been legislatively established. The standards will apply statewide beginning on the first day of January of the 2<sup>nd</sup> year following the year in which the Commissioner of Conservation determines that at least 252 of the 336 municipalities identified by the Commissioner of Conservation as the municipalities with the highest

acreage of timber harvesting activity on an annual basis for the period 1999-2003 have either accepted the statewide standards or have adopted an ordinance identical to the statewide standards.

For those municipalities that choose option 2, these Guidelines contain timber harvesting standards that are identical to the statewide standards (Section 15(O-1)). They are written in a form that can be enacted prospectively, with the effective date linked to the legislative effective date of the statewide standards. On that effective date, Section 15(O) will be repealed and replaced with Section 15(O-1) and the municipality will begin administering the statewide timber harvesting standards for shoreland areas. If the municipality also enters into an agreement with the Bureau of Forestry delineating the administrative and enforcement duties of each party, the municipality will receive assistance in those aspects of the Ordinance from the Bureau of Forestry.

If a municipality chooses option 1, completely repealing the municipal regulation of timber harvesting activities in the shoreland zone and deferring the regulation of timber harvesting activities to the Bureau of Forestry, the ordinance must include “transition” language because the repeal of timber harvesting regulations in a municipality cannot occur until the statewide standards become effective. For those municipalities that wish to ultimately repeal their timber harvesting regulations the Department recommends that Section 15(P) be retained, along with repeal language (modified Section 4(B)) that would take effect on the date that the state-wide standards become effective. The repeal language should include the specific sections that will be repealed when the legislative effective date arrives. This would include all references to timber harvesting regulations, including:

1. Section 14, Table 1, *Land Uses in the Shoreland Zone*, Item 3 (forest management activities except for timber harvesting & land management roads), Item 4 (timber harvesting), and Item 27 (land management roads) of the Table;
2. Section 15(O) in its entirety (Section 15(O-1) would not have been adopted by those municipalities that had elected to retain section 15(O), so there would be no need to repeal section 15(O-1)); and
3. All definitions in Section 17 pertaining to timber harvesting and forest management activities, including the terms: Cross-sectional area, DBH, Disruption of shoreline integrity, Forest management activities, Forest stand, Harvest area, Land management road, Licensed forester, Residual basal area, Residual stand, Skid road or skid trail, Slash, Timber harvesting, Timber harvesting and related activities, and Wind firm.

A municipality that chooses option 3, retaining or adopting timber harvesting and forest management activities regulations that differ from the statewide standards, will simply adopt Section 15(O) or adopt/retain other consistent standards approved by the Department. These municipalities will not adopt Section 15(O-1), the new definitions listed above or the repeal language at Section 4(B). Municipal officials must remember that any future amendments to ordinances that have maintained the earlier timber harvesting standards must, thereafter, be consistent with the statewide standards, once those statewide standards become effective.

Some municipalities have questioned whether the statewide timber harvesting standards can be adopted and administered locally before the statewide standards become effective. The answer is yes, in part. The statewide standards contain three alternatives that a landowner may choose to satisfy the requirement of leaving “adequate tree cover” and retaining a “well-distributed stand of trees. The first alternative (Section 15(O-1)(3)(a)) is based on the removal of up to 40% of the volume of trees in a 10 year period. This option is very similar to the standard that has been in place for many years. The



second alternative (Section 15(O-1)(3)(b)) bases the allowed harvest not on volume removal, but on retaining at least 60 square feet of basal area. Either or both alternatives can be enacted and administered before the statewide standards are effective. The third alternative (Section 15(O-1)(3)(c)) bases the permitted harvest on an outcome-based plan which provides equal or better protection of the shoreland area than the other two alternatives. This option is only available if the plan is signed by a Licensed Forester, and approved by the Bureau of Forestry. However, since the Bureau of Forestry will not be actively participating in the administration of the statewide standards until the legislative effective date, a municipal ordinance that includes the outcome based alternative that is immediately effective will not be approved before that date. Thus, if a municipality wishes to adopt and administer the standards in Section 15(O-1) immediately, it must adopt only alternatives one and two as described above, or draft the ordinance such that the option-based alternative in Section 15(O-1)(3)(c) does not become effective until the legislative effective date of the statewide standards.

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## **O. Timber Harvesting**

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
  - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line, timber harvesting may be conducted when the following conditions are met:
    - (1) The ground is frozen;
    - (2) There is no resultant soil disturbance;
    - (3) The removal of trees is accomplished using a cable or boom and there is no entry of tracked or wheeled vehicles into the 75-foot strip of land;
    - (4) There is no cutting of trees less than 6 inches in diameter; no more than 30% of the trees 6 inches or more in diameter, measured at 4 ½ feet above ground level, are cut in any 10-year period; and a well-distributed stand of trees and other natural vegetation remains; and
    - (5) A licensed professional forester has marked the trees to be harvested prior to a permit being issued by the municipality.
  - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
  - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
    - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond 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, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
- (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.
- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
  - (i) Surface waters are frozen; and
  - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral

soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

**O-1. Timber Harvesting – Statewide Standards [Effective on effective date established in Section 4(B)]**

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands occurs, such conditions must be corrected.
- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 15(O-1)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to great ponds, rivers and wetlands:
    - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - (a) Option 1 (40% volume removal), as follows:
    - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
    - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
    - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances

greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

(b) Option 2 (60 square foot basal area retention), as follows:

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

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

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

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.

- (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
- (c) Setbacks:
  - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
  - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in Section 15(O-1)(7) of this rule.
  - (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
    - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
    - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
    - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
  - (b) The minimum 100 foot setback specified in Section 15(O-1)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.



- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent.
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.
- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 15(O-1)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (f) Road closeout and discontinuance. Maintenance of the water control installations required in Section 15(O-1)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 15(O-1). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 15(O-1)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows.
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 15(O-1): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 15(O-1). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 15(O-1).
  - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
  - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
  - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
    - (i) a map showing the location of all proposed permanent crossings;
    - (ii) the GPS location of all proposed permanent crossings;
    - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
    - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the requirements of this Section.
  - (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 15(O-1)(6)(g)) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
    - (i) concentrated water runoff does not enter the stream or tributary stream;
    - (ii) sedimentation of surface waters is reasonably avoided;
    - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
    - (iv) fish passage is not impeded; and,
    - (v) water flow is not unreasonably impeded.

Subject to Section 15(O-1)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

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

- (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
- (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 15(O-1)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
  - 1. use of temporary skidder bridges;
  - 2. removing culverts prior to the onset of frozen ground conditions;
  - 3. using water bars in conjunction with culverts;
  - 4. using road dips in conjunction with culverts.
- (iii) Culverts utilized in river, stream and tributary stream crossings must:
  - 1. be installed at or below river, stream or tributary stream bed elevation;
  - 2. be seated on firm ground;
  - 3. have soil compacted at least halfway up the side of the culvert;
  - 4. be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
  - 5. have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, stream and tributary stream crossings allowed under Section 15(O-1), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream

channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.

(h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:

- (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.
  - (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    1. it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
    2. it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
    3. it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

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

## (7) Slope Table

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 15(O-1), but in no case shall be less than shown in the following table.

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

#### **P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting**

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

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

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond 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 (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4



12 in. or greater

8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

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

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.
- (d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- (e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

- (3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent

calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

- (4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
- (5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

#### **Q. Erosion and Sedimentation Control**

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

- (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
- (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

## 16. Administration

### A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

- B. Permits Required.** After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit

pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
  - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
  - (b) The replacement culvert is not longer than 75 feet; and
  - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

#### **C. Permit Application**

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.
- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

**D. Procedure for Administering Permits.** Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

**E. Special Exceptions.** In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
  - (a) Located on natural ground slopes of less than 20%; and



- (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

**F. Expiration of Permit.** Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

**G. Installation of Public Utility Service.** A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

## **H. Appeals**

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
  - (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.

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

(2) Variance Appeals. Variances may be granted only under the following conditions:

- (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
- (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
- (c) The Board shall not grant a variance unless it finds that:
  - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
  - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted;
    - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - c. That the granting of a variance will not alter the essential character of the locality; and
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days

prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

### (3) Administrative Appeals

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

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

### (4) Appeal Procedure

#### (a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.
- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
  - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
  - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

## (b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
  - (ii) The person filing the appeal shall have the burden of proof.
  - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
  - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

**I. Enforcement**

- (1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.
- (2) Code Enforcement Officer
  - (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of

such notices shall be submitted to the municipal officers and be maintained as a permanent record.

- (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
  - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452.

## 17. Definitions.

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

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

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



Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

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

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

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

Bureau – State of Maine Department of Conservation's Bureau of Forestry

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

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

Coastal wetland - all tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed 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.

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

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or

psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

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

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

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

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

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

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

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

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

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

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

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

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

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

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

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

Individual private campsite - an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to a gravel pad, parking area, fire place, or tent platform.

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

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

Lot area - The area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots.

Marina - a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Market value - the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

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

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

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

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

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



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

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

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

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

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

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

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

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

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

Road - a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined.

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

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
  - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
  - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
  - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
  - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

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

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

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, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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

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

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

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

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

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

STATUTORY AUTHORITY: 38 M.R.S.A. Section 438-A(5)

EFFECTIVE DATE:

January 13, 1988 (Filed as 06-101, Ch. 1)

AMENDED:

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EFFECTIVE DATE (ELECTRONIC CONVERSION): May 5, 1996

NON-SUBSTANTIVE CORRECTIONS:

December 29, 1997 - minor spelling and formatting.

April 1, 1998 - minor renumbering and formatting.

AMENDED:

February 6, 1999

February 13, 2000

May 1, 2006 – Filing 2006-115



**1. Appendix A:****ALTERNATIVE TO 30% EXPANSION RULE PURSUANT TO 38 M.R.S.A. SECTION 439-A  
SUBSECTION 4-A****Section 12.C. Non-conforming Structures**

(1) Expansions. A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.

(a) Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.

- i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
- ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
- iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.
- iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

(b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation

does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.

- (1-A) Special expansion allowance. Existing principal and accessory structures that exceed the floor area or height limits set in Section 12(C)(1)(a)(iii) and Section 12(C)(1)(a)(iv) above, may not be expanded, except that the limits may be exceeded by not more than 500 square feet provided that all of the following requirements are met.

- (a) The principal structure is set back at least 50 feet, horizontal distance, from the normal high-water line of a water body, tributary stream or upland edge of a wetland.
- (b) A well-distributed stand of trees and other natural vegetation as defined in Section 15(P)(2)(b), extends at least 50 feet, horizontal distance, in depth as measured from the normal high-water line or upland edge for the entire width of the property.

If a well-distributed stand of trees and other vegetation meeting the requirements of Section 15(P)(2)(b) is not present, the 500 square foot special expansion allowance may be permitted only in conjunction with a written plan, including a scaled site drawing, by the property owner, and approved by the Planning Board or its designee, to reestablish a buffer of trees, shrubs, and other ground cover within 50 feet, horizontal distance, of the shoreline or tributary stream.

- (c) Adjacent to great ponds classified GPA and rivers flowing to great ponds classified GPA, except for the allowable footpath, there exists complete natural ground cover, consisting of forest duff, shrubs and other woody and herbaceous vegetation within 50 feet, horizontal distance, of the normal high-water line. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch and plantings of native shrubs, and other woody and herbaceous vegetation in quantities sufficient to retard erosion and provide for effective infiltration of stormwater.
  - (d) A written plan by the property owner, including a scaled site drawing, is approved by the Planning Board and is developed, implemented, and maintained to address the following mitigation measures for the property within the shoreland zone.
    - (i) Unstabilized areas resulting in soil erosion must be mulched, seeded, or otherwise stabilized and maintained to prevent further erosion and sedimentation to water bodies, tributary streams, and wetlands.
    - (ii) Roofs and associated drainage systems, driveways, parking areas, and other nonvegetated surfaces must be designed or modified, as necessary, to prevent concentrated flow of storm water runoff from reaching a water body, tributary stream or wetland. Where possible, runoff must be directed through a vegetated area or infiltrated into the soil through the use of a dry well, stone apron, or similar device.
- (1-B) Planting requirements. Any planting or revegetation required as a condition to the Special Expansion Allowance must be in accordance with a written plan drafted by a qualified professional, be implemented at the time of construction, and be designed to meet the rating scores contained in paragraph (b) and the ground cover requirements of paragraph (c) when the vegetation matures within the 50 foot strip. At a minimum, the

plan must provide for the establishment of a well-distributed planting of saplings spaced so that there is at least one sapling per 80 square feet of newly established buffer. Planted saplings may be no less than three (3) feet tall for coniferous species and no less than six feet tall for deciduous species. The planting plan must include a mix of at least three native tree species found growing in adjacent areas, with no one species making up more than 50% of the number of saplings planted unless otherwise approved by the Planning Board or its designee, based on adjacent stand comparison. All aspects of the implemented plan must be maintained by the applicant and future owners.

- (1-C) Filing and reporting requirements. Written plans required pursuant to Section 12(C)(1-A)(d) must be filed with the registry of deeds of the county in which the property is located. A copy of all permits issued pursuant to this section must be forwarded by the municipality to the department within 14 days of the issuance of the permit.

**APPENDIX B****38 §437. Significant river segments identified**

For purposes of this chapter, significant river segments include the following:

1. **Aroostook River.** The Aroostook River from St. Croix Stream in Masardis to the Masardis and T.10, R.6, W.E.L.S. townline, excluding segments in T.9, R.5, W.E.L.S.; including its tributary the Big Machias River from the Aroostook River in Ashland to the Ashland and Garfield Plantation townlines;
2. **Dennys River.** The Dennys River from the railroad bridge in Dennysville Station to the dam at Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
3. **East Machias River.** The East Machias River from 1/4 of a mile above the Route 1 bridge in East Machias to the East Machias and T.18, E.D., B.P.P. townline, and from the T.19, E.D., B.P.P. and Wesley townline to the outlet of Crawford Lake in Crawford, excluding Hadley Lake;
4. **Fish River.** The Fish River from the bridge in Fort Kent Mills to the outlet of Eagle Lake in Wallagrass, and from the Portage Lake and T.14, R.6, townline to the Portage Lake and T.13, R.7, W.E.L.S. townline, excluding Portage Lake;
5. **Machias River.** The Machias River from the Whitneyville and Machias townline to the Northfield T.19, M.D., B.P.P. townline;
6. **Mattawamkeag River.** The Mattawamkeag River from the outlet of Mattakeunk Stream in Winn to the Mattawamkeag and Kingman Township townline, and from the Reed Plantation and Bancroft townline to the East Branch, including its tributaries the West Branch from the Mattawamkeag River to the Haynesville T.3, R.3, W.E.L.S. townline and from its inlet into Upper Mattawamkeag Lake to the Route 2 bridge; the East Branch from the Mattawamkeag River to the Haynesville and Forkstown Township townline and from the T.4, R.3, W.E.L.S. and Oakfield townline to Red Bridge in Oakfield; the Fish Stream from the Route 95 bridge in Island Falls to the Crystal-Patten townline; and the Baskehegan Stream from its inlet into Crooked Brook Flowage in Danforth to the Danforth and Brookton Township townline;
7. **Narraguagus River.** The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township townline, excluding Beddington Lake;
8. **East Branch of Penobscot.** The East Branch of the Penobscot from the Route 157 bridge in Medway to the East Millinocket and Grindstone Township townline;
9. **Pleasant River.** The Pleasant River from the railroad bridge in Columbia Falls to the Columbia and T.18, M.D., B.P.P. townline, and from the T.24, M.D., B.P.P. and Beddington townline to the outlet of Pleasant River Lake;
10. **Rapid River.** The Rapid River from the Magalloway Plantation and Upton townline to the outlet of Pond in the River;
11. **West Branch Pleasant River.** The West Branch Pleasant River from the East Branch to the Brownville and Williamsburg Township townline; and
12. **West Branch of Union River.** The West Branch of the Union River from the Route 9 bridge in Amherst to the outlet of Great Pond in the Town of Great Pond.

# SUBDIVISION ORDINANCE TOWN OF CLINTON

PREPARED BY:  
COMPREHENSIVE PLAN IMPLEMENTATION  
COMMITTEE

ASSISTED BY MAINE TOMORROW  
JUNE 1992



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## SUBDIVISION REGULATIONS FOR THE TOWN OF CLINTON

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### ARTICLE 1 - PURPOSES

To implement the State Subdivision Law, Title 30-A M.R.S.A., Sections 4401 – 4406

### ARTICLE 2 - AUTHORITY AND ADMINISTRATION

#### 2.1 Authority

This Ordinance has been prepared in accordance with the provisions of Title 30-A M.R.S.A., Section 4403

#### 2.2 Administrator

The Planning Board of the Town of Clinton, hereafter called the Board, shall administer this Ordinance.

#### 2.3 Amendments

- A. This ordinance may be amended at an Annual or Special Town Meeting of the Town of Clinton.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

### ARTICLE 3 - DEFINITIONS

In general words and terms used in this Ordinance shall have their customary dictionary meanings. More specifically, any word or term defined in the Clinton Land Use Ordinance shall have the definition contained in that Ordinance, unless defined differently below, other words and terms used herein are defined as follows:

Applicant: The person applying for subdivision approval under this Ordinance.

Buffer Area: A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

Cluster Subdivision: A development consisting exclusively of residential dwelling units, planned, developed as a whole or in a programmed series of developments, and controlled by one developer on *a tract of 5 or more lots* which contemplates an innovative, more compact grouping of dwelling units. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the permanent retention of the natural characteristics of the land.

Common Open Space: Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission or required information. The Board shall issue a written statement to the Applicant upon its determination that an application is complete.

Complete Substantial Construction: The completion of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multi-family development, or if the Applicant proposes to construct the buildings within the subdivision. The cost of building construction shall be included in the total costs of proposed improvements.

Conservation Easement: a non-fiduciary interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

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

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: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities; includes single family houses, and the units in a duplex apartment house, multi-family dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

Freshwater Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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 surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

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

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

High water Mark: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or change in vegetation, and which distinguishes between predominantly aquatic and predominately terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

Multi-family Development: A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.14 C. 2.

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



On-Site Inspection: An On-Site Inspection is a visit to the proposed subdivision by a quorum of the Planning Board and the Applicant or an authorized representative or agent.

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

Planning Board: The Planning Board of the Town of Clinton

Pre-application Sketch Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Professional Engineer: A professional engineer, registered in the State of Maine.

Public Water System: A water supply system that provides water to at least fifteen service connections or services water to at least 25 individuals daily for at least thirty days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this Ordinance as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the Applicant for initial review prior to submitting as application for subdivision approval. May be used by the Applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

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

Subdivision: The division of a tract or parcel of land as defined by the State Division Law Title 30-A, M.R. S.A. Sections 4401-4407.

Tract or Parcel of Land: \_All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Usable Open Space: That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

## ARTICLE 4 - ADMINISTRATIVE PROCEDURE

The Board shall prepare a written agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who are not on the Board's agenda may be heard but only after all agenda items have been completed. However, the Board shall take no action on any application not appearing on the Board's written agenda.

## ARTICLE 5 - INTRODUCTORY MEETING, PREAPPLICATION MEETING, AND SITE INSPECTION

### 1 PURPOSE

The purpose of the introductory meeting, pre-application meeting and on-site inspection is for the Applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soil identification, and engineering by the Applicant.

### 2 PROCEDURE

#### A. Introductory Meeting

1. At a regularly scheduled Planning Board meeting, the Applicant gives a basic idea of the proposed subdivision with or without a sketch.
2. The Board asks questions and makes suggestions.
3. The Applicant is given a copy of the Ordinance and an application.
4. The Applicant will be asked to provide to the Planning Board Secretary, the name and addresses of all abutting landowners at least ten days prior to the scheduled Pre-application meeting.
5. The Applicant's name is put on the agenda for the next Board meeting for a Pre-application meeting.
6. Any expenses incurred by the Planning Board for notification of abutting landowners will be the responsibility of the Applicant.

#### B. Pre-application Meeting

1. The Applicant presents the more detailed Pre-application Sketch Plan(s) and makes a presentation regarding the proposed subdivision.
2. The Board asks questions and makes suggestions to be incorporated into the application.
3. The date of the On-Site Inspection is selected.

### C. On-Site Inspection

1. Within 30 days of the Pre-application meeting, the Board shall hold an On-Site Inspection of the property.
2. The Board shall inform the Applicant in writing of the required contour interval to be used on the Final Plan.
3. The Applicant may be required to place "flagging" at the center line of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the On-Site Inspection.

### 5.3 Submission

- A. The Pre-application Sketch Plan shall show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which may be free-hand penciled sketch, should be supplemented with general information to describe 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). The Sketch Plan shall also 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 acres in size.
- B. On a subdivision of five or more lots, the applicant shall submit two Pre-application sketch plans; a conventional subdivision plan with lots designed to meet the requirements of the Land Use Ordinance, and a clustered/open space plan showing how open space is to be preserved. The Board shall select the plan that best meets the goals of the Comprehensive Plan. The Planning Board may require that significant agricultural land and stream corridors be preserved as open space.

### 5.4 Rights Not Vested

The Introductory meeting, pre-application meeting, the submittal or review of the pre-application sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., Section 302.

## ARTICLE 6 - PLAN APPLICATION

- A. Within six months after the on-site inspection by the Board, the Applicant shall submit a Complete Application for approval of a Final Plan at least ten days prior to a scheduled meeting of the Board. If the Applicant fails to submit a Complete Application within the six month' period (s) he shall be required to resubmit the Sketch Plan. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. Final Plan

Within thirty days from the public hearing or within sixty days of determining a Complete Application has been submitted, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to by the Board and the Applicant, the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A M.R.S.A., Section 4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, the Board shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.

6.2 Final Approval and filing

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the Town of Clinton.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., Section 4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the Code Enforcement Officer. Any subdivision not recorded in the Kennebec County 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. 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.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance, by the Town of Clinton of any street, easement, recreation area or other open space shown on such plan. The Plan shall contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Selectmen covering future deed and title dedication, and provision for the cost of grading development, equipment, and maintenance of any such dedicated area.

- E. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five 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 Kennebec County Registry of Deeds to that effect.

### 6.3 FEES

- A.
  - 1) A fee is payable with an application for a Subdivision. See the current fee structures in paragraph 3 below.
  - 2) All land use permit fees shall be amended by the municipal officer (Board of Selectmen), based on recommendations by the Planning Board, the municipal officers (Board of Selectmen) will hold three public hearings soliciting input before adopting or amending land-use fees at any properly warned public hearing.
  - 3) All applications for Subdivision approval shall be accompanied by a non-refundable application fee of \$25.00 per lot or dwelling unit, payable by check to the Town of Clinton. In addition, the Board may require that the Applicant pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for the application, to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75%, the Board shall notify the Applicant, and require that an additional \$15.00 per lot or dwelling unit be deposited by the Applicant. The Board shall continue to notify the Applicant and require an additional \$15.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the 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 a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- B. The Applicant, or their duly authorized representative, shall attend the meeting of the Board to present all plans. Failure to attend the meeting to present the plans shall result in delay of the Board's receipt of the plan until the next meeting which the Applicant attends.
- C. Upon receipt of an application for Subdivision approval the Board shall issue a dated receipt to the Applicant, notify in writing all owners of abutting property that an application for subdivision approval has been submitted, and notify the review authority of the neighboring municipalities if any portion of the subdivision includes or crossed the Town boundary.
- D. Within thirty days of the receipt of the application, the Board shall determine whether the application is complete and notify the Applicant in writing of its determination. If the application is not complete, the Board shall notify the Applicant of the specific additional material needed to complete the application.



- E. Upon a determination that a Complete Application has been submitted for review, the Board shall determine whether to hold a public hearing on the Application. The Board shall also notify the Road Commissioner, Fire Chief, Selectmen and other public officials, as appropriate.
- F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a Complete Application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in Clinton at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the Applicant.

## ARTICLE 7 FINAL PLANS SUBMISSION

### 7.1 Submissions: the Final plan application shall consist of the following items.

- A. Application form (See Appendix).
- B. Location Map. The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality.

The Location Map shall show:

- 1. Locations and names of existing and proposed streets.
  - 2. An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holding.
- C. The application for approval of a Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A, M.R.S.A., Section 4404 are met.
    - 1. Proposed name of the subdivision, plus the Assessor's Map and Lot numbers.
    - 2. Verification of right, title or interest in the property.
    - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. The date the Plan was prepared, north point, and graphic map scale.
7. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners.
8. The location of all rivers, streams, and brooks within or adjacent (within 300 feet), to the proposed subdivision.
9. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
10. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
12. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
13. Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by the Clinton Water District, a written statement from the District shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the District IS supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the District approving the design of the extension shall be submitted.
14. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.

15. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetation cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.
  16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision.
  17. 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, as depicted on the Town's Flood Insurance Rate Map, shall be delineated on the plan.
  18. An erosion and sedimentation control plan, if required by the Board, prepared in accordance with the erosion and sedimentation control standards of the Department of Environmental Protection.
  19. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife.
  20. A hydro-geologic assessment, if required by the Board, prepared in accordance with the standards of the DEP.
  21. A storm-water control plan, if required by the Board, prepared in accordance with the standards of the DEP.
  22. In residential subdivisions of 10 or more lots, an analysis of the impact of the proposed subdivision on public facilities including roads, schools, police and fire protection, outdoor recreation, water supply, sewage disposal, and storm drainage.
- D. Final Plan. The Final Subdivision Plan shall consist of two reproducible, stable based transparencies, one to be recorded at the Kennebec County Registry of Deeds, the other to be filed at the Clinton Town Office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the

plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

## ARTICLE 8 - REVISIONS TO APPROVED PLANS

### 8.1 Procedures

An applicant for revision to a previously approved plan shall, at least ten 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 procedure 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 this Ordinance and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and 'page or cabinet and sheet on which the original plan is recorded at the Kennebec County Registry of Deeds.

### 8.3 Scope of Review

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

## ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

### 9.1 Inspection of Required Improvements

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the Selectmen can cause inspection to be made to assure that all Town specification, requirements, and conditions of approval shall be met during construction of required improvements and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Upon completion of street construction and prior to a vote by the Selectmen to submit a proposed public way to a Town Meeting, a written certification signed by a professional engineer shall be submitted to the Selectmen at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance.

### 9.3 Violations and Enforcement

- A. No plan of a division of land within the Town of Clinton which would constitute a subdivision shall be recorded in the Kennebec County Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- B. A person, shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Kennebec County Registry of Deeds.
- C. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- D. 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 this Ordinance up to and including the entire frontage of the lot.
- E. Violation of the above provisions of this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A., Section 4452

## ARTICLE 10 - GENERAL PERFORMANCE AND DESIGN STANDARDS

In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

### 10.1 Sufficient Water

- A. The subdivider must demonstrate either that: the proposed public water system has the capacity to serve the proposed subdivision, or there is sufficient ground water available to provide individual wells with an adequate supply of potable water.
- B. The Board shall require either that: the applicant shall, where soil type and topography are appropriate, construct ponds and dry hydrants to provide for adequate water storage for firefighting purposes; or the applicant shall demonstrate that an adequate supply of naturally occurring water exists for firefighting purposes. An easement shall be granted to the Town granting access to the dry hydrants or naturally occurring water supply when necessary.
- C. In cases where ponds or dry hydrants cannot be installed, and where there is no naturally occurring water source, the Board may require the subdivider to present additional options for rapid water supply after discussion with the Fire Chief.



- D. The subdivider must demonstrate that the proposed subdivision will not contaminate or otherwise harm wells on adjacent property.

#### 10.2 Soil Erosion

- A. The proposed subdivision shall not increase soil erosion that may enter water bodies, freshwater wetlands, or adjacent properties.
- B. A soil erosion control plan shall be required by the Board when slopes are between 8 and 20 percent.
- C. Slopes in excess of 20 percent shall be maintained as open space.
- D. A soil erosion plan shall be required for residential development of 10 or more lots and for commercial and industrial projects.

#### 10.3 Sewage Disposal

- A. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the Maine Subsurface Wastewater Disposal Rules.
- B. 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.
- C. Where a proposed subsurface sewage disposal system is to serve more than 5 dwelling units, 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.

#### 10.4 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline

- A. Preservation of Natural Beauty and Aesthetics.
  - 1. The Board may require that new developments blend in with the existing landscape and that existing land cover be maintained to the maximum extent possible.
  - 2. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.

3. Unless located in areas designated as a growth area in the Comprehensive Plan, a residential subdivision of 10 or more lots in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifteen feet (15') in width along all existing public roads. All residential subdivisions shall maintain an open space buffer strip of 100 feet between the residences and active farming operations. The buffer may be broken only for driveways and streets.

4. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

5. Unless located in areas designated as a growth area in the Comprehensive Plan, an open space buffer strip of at least 50 feet in width shall be maintained adjacent to moderate to high value waterfowl area as identified in the Comprehensive Plan.

**B. Retention of Open Spaces**

1. To the maximum extent possible, the following areas shall be retained as open space corridors: snowmobile trails, walkways, logging roads, abandoned and/or discontinued roads, deer wintering areas, historic and archaeological areas, and scenic views as seen from public roads.

2. Open space or outdoor recreational facilities shall be provided in all development of ten (10) or more lots regardless of whether or not such developments are cluster/open space developments. Depending on the size and location of the Subdivision, the Board may require the developer to provide up to ten percent (10%) of the total area for recreation. Land reserved for park and/or recreational purposes shall be of a character, configuration, and location suitable for the particular use intended. A site to be used for active recreational purposes, such as a playground or playfield, should be relatively level and dry. Sites selected for recreational purposes shall have such access as the board may deem suitable and shall be served by a right-of-way of at least thirty feet (30') in width.

**C. Preservation of Significant Wildlife Habitat**

1. Within 100 feet of any stream or river designated as a high or moderate value fishery by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan, no alteration shall be permitted.

2. Within 100 feet of the upland edge of a wetland designated as high or moderate value for waterfowl habitat by the Department of Inland Fisheries and Wildlife or in the Comprehensive Plan no alteration shall be permitted. Existing vegetative cover shall be maintained.

#### 10.5 Conformance with Land Use Ordinance and Other Ordinances

All lots shall meet the minimum dimensional requirements of the Land Use Ordinance for the land use district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria of the Land Use Ordinance.

#### 10.6 Financial and Technical Capacity

##### A. Financial Capacity

The applicant shall have adequate financial resources to construct the proposed improvements, including buildings, if a part of the project, and meet the criteria of the statute and the standards of this Ordinance. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

##### B. Technical Ability

In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

#### 10.7 Ground Water Quality

A. The Clinton Water District shall be notified of any subdivisions that are within 1000 feet of their well.

B. When the Planning Board determines that a hydro-geologic assessment is necessary, the assessment shall comply with the Department of Environmental Protection's guidelines for hydro-geologic assessments as set forth under the Site Location of Development Act.

#### 10.8 Flood Plain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall include a statement that structures shall be located outside the flood hazard area.

10.9 Storm Water Management

- A. Adequate provisions shall be made for disposal of all storm water generated within the subdivision. and any drained ground water through a management system of swales, culverts, under-drains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are' designed or ground water recharge is desirable.
- B. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

10.10 Reservation or Dedication and Maintenance of Open Space and Common Land. Facilities and Services

- A. All open space common land • facilities and property shall be owned by: the owners of the lots or dwelling units by means of lot-, owners association; an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or the Town of Clinton.
- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. When open space is to be owned by an entity other than the Town, there shall be a conservation easement deeded to the municipality prohibiting future development.
- C. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate that it shall not be used for future building lots and which portions of the open space, if any, may be dedicated for acceptance by the Town of Clinton.
- D. The final plan application shall include the following:
  - 1. Covenants for mandatory membership in the lot owners association setting forth the owner's rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - 2. Draft article of incorporation of the proposed lot owners association as a not-for-profit corporation.
  - 3. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

In combination, the documents referenced in paragraph D above shall provide for the following. The homeowners association shall have the responsibility of maintaining the common property or facilities. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair, replacement of common property and facilities and tax assessments. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

10.11 Traffic Conditions

a. Access Control

1. Subdivisions of 10 or more lots located within the Rural District must front on interior roads.
2. Access to backland shall be retained as land is developed.

b. Street Design and Construction Standards

1. General Requirements

- a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specification contained in this Ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any street or easement.
- b. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at scale of one inch equals no more than fifty feet. The vertical scale of the profile shall be one inch equals no more than five feet. The plans shall include the following information:
  1. Date, scale, and north point, indicating, magnetic or true.
  2. Intersections of the proposed street with existing streets.
  3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.



4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.

5. Complete curve data shall be indicated for all horizontal and vertical curves.

6. Turning radii at all intersections.

7. Center line gradients.

8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, electricity; telephone, lighting, and cable television.

c. Upon receipt of plans for a proposed street the Board shall forward one copy to the Selectmen, the Road Commissioner (s), and the Town Engineer for review and comment.

d. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner (s) or the Maine Department of Transportation, as appropriate.

e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owner and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards."

f. The Planning Board may require that land be reserved for a future connector road or street.

## 2. Street Design Standards

a. These design guidelines shall control the roadway, shoulders, curbs, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the Applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice.

- b. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), or when there are plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marker "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Land Use Ordinance.
- c. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- d. The following design standards apply according to street classification:

Description	TYPE OF STREET		
	Collector	Minor	Private Right of Way
Minimum Width right-of-Way	50'	50'	30' *
Minimum Traveled Way Width	24'	20'	18'
Minimum Width of shoulders (each side)	3'	3'	3'
Minimum Center Line radius			
- Without banking	280'	280'	175'
- With banking	175'	175'	110'
Roadway Crown **	¼ " ft	¼ " ft	***
Minimum angle of street intersections****	90 °	90 °	75 °
Maximum grade within 75 ft. of intersection	3%	3%	N/A
Minimum curb radii at intersection	25'	20'	N/A
Minimum r/o/w radii at intersections	10'	10'	10'

\*Serving only one or two dwelling units.

\*\*Roadway crown is per foot of lane width.

\*\*\*Gravel surface shall have a minimum crown of 3/4 inch per foot of lane width.

\*\*\*\*Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

### 3. Dead End Streets

In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line: 60 ft.; outer edge of pavement: 50 ft.; inner edge of pavement: 30 ft. The Board may require the reservation of a 20 ft easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street The Board may also require the reservation of a 50 ft. easement in line with the street to provide continuation of the road where future subdivision is possible.

### 4. Intersections and Sight Distances

a. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

b. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based. on the street design speed.

Design Speed (mph)	20	25	30	35
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distances shall be calculated with a height of eye at 3 1/2 feet and the height of object at 1/2 feet.

- c. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curb line or edge of shoulder with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance (ft)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions to achieve the required visibility.

- d. Cross (four-cornered) street intersections shall be avoided insofar as possible. A minimum distance of 125 feet shall be maintained between the center lines of streets.

5. Street Construction Standards

- a. The minimum thickness of material shall meet the specifications in the table below, after compaction.

MINIMUM REQUIREMENTS

Street Material	Public Street	Private Right of Way
Aggregate Sub-base Course (max. sized stone 6") -		
Without base gravel	18"	15"
With base gravel	15"	12"
Crushed Aggregate Base Course (if necessary)	3"	3"
Hot Bituminous Pavement		
Total Thickness	3"	N/A
Surface Course	1 ¼ "	N/A
Base course	1 ¾ "	N/A
Surface Gravel	N/A	3"

b. Preparation

1. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way shall be cleared of all stumps, roots, brush, shallow ledge, large boulders and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of 2 feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the road. On soils which have been identified by a Licensed Professional Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the sub-grade and replaced with material meeting the specifications for gravel aggregate sub-base below, or an HDOT approved stabilization geo-textile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of 3 feet horizontal to 1 foot vertical, and shall be graded and properly seeded according to the specifications of an erosion and sedimentation control plan. Where a cut results in exposed ledge, a side slope no steeper than 4 feet vertical to 1 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.

10.12 LOTS

- A. All lots shall meet the minimum lot size and dimensional requirements of the Land Use Ordinance.
- B. Wherever possible, side lot lines shall be perpendicular to the street.
- C. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of this Ordinance and conditions placed on the original approval.



- D. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size. it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
- E. 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.

#### 10.13 Monuments

- A. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- B. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

#### 10.14 Cluster Developments/Two Plan Requirement

- A. General

1. In accordance with the requirements of Article 5.3(B), the applicant shall submit a cluster plan designed to meet the requirements of the Land Use Ordinance, showing how open space is to be preserved. The purpose of the cluster plan is to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the Land Use Ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements (i. e. lot size, frontage including zero lot line development) to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances. The Planning Board may allow conventional subdivision development if clustered development is determined not to be feasible or not to offer open space advantages.

## B. Application Procedure

The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this Ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features (i. e. significant agricultural and forest land and stream corridors) without increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and lot width requirements of this Ordinance, and have an area sui table for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate-to-high value wildlife and waterfowl habitats, important agricultural and forest land, moderate-to-high yield aquifers, and important natural or historic sites identified by the Comprehensive Plan as worthy of preservation.

Within ten days of receiving the application, the Board shall invite comments on the application from Selectmen, other appropriate town officials and abutters. Within thirty days of receiving the application, the Board shall determine whether to require that the subdivision be developed in accordance with the cluster standards of this section.

## C. Basic Requirements for Cluster Developments

1. Cluster Developments shall meet all requirements of this Ordinance.
2. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:

- a. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
  - b. Portions of the lot shown to be in a floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - i. slopes greater than 20%
    - ii. organic soils
    - iii. wetlands soils
  - d. Portions of the lot subject to rights of way.
  - e. Portions of the lot located in the resource protection zone.
  - f. Portions of the lot covered by surface water.
- 3. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the Land Use Ordinance. No building shall be sited on slopes steeper than 20%, or within 75 feet of any water body or wetland.
  - 4. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the Land Use Ordinance. No less than 30% of the reserved open space shall be usable open space.
  - 5. Every building lot that is reduced in area below the amount normally required shall be within 1000 feet of the common land.
  - 6. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
  - 7. Shore frontage shall not be reduced below the minimum normally required by the Land Use Ordinance.
  - 8. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

## ARTICLE 11 - PERFORMANCE GUARANTEE S

With submittal of the application for Final Plan approval, the Board may require the subdivider to provide a performance guarantee 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.

## ARTICLE 12 - WAIVERS

- 12.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance.
- 12.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or this Ordinance, and further provided the performance standards of this Ordinance and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.
- 12.3 In granting waivers to any of this Ordinance in accordance with Sections 12.1 and 12.2, the Board shall require such conditions as will assure the purposes of this Ordinance are met.
- 12.4 Waivers to be shown on Final Plan

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan. to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## ARTICLE 13 - APPEALS

13.1 An aggrieved party may appeal any decision of the Board under this Ordinance to the Board of Appeals, within thirty days of the date of the decision.

Derivation: Town Meeting June 9, 2009

Subdivision Ordinance Town of Clinton Article 13 – Appeals Section 13.1

Replaced the words “Kennebec County Superior Court” with “Board of Appeals”.

STATE OF MAINE  
MUNICIPALITY OF CLINTON PLANNING BOARD

DATE: \_\_\_\_\_  
FEE: \_\_\_\_\_  
BY: \_\_\_\_\_  
APPLICATION  
NUMBER: \_\_\_\_\_

**APPLICATION FOR SUBDIVISION APPROVAL**

Applicant:

Name: \_\_\_\_\_ Tel: \_\_\_\_\_

Address: \_\_\_\_\_

Interest in Property: \_\_\_\_\_

Interest in abutting property, if any: \_\_\_\_\_

Owner

Name: \_\_\_\_\_ Tel: \_\_\_\_\_

Address:

Name of Project:

Type of Proposed Activity:

- ☐ Minor Subdivision Review
- ☐ Major Subdivision Review – Preliminary Plan Review
- ☐ Site Plan Review
- ☐ Other \_\_\_\_\_

Project Type:

- ☐ Single Family      ☐ Multi-Family      ☐ Condominium      ☐ Other



Location:

Street Address: \_\_\_\_\_

Registry of Deeds: Book \_\_\_\_\_

Page \_\_\_\_\_

Assessor's Office: Map \_\_\_\_\_

Lot \_\_\_\_\_

Other Project Information

Size of Parcel (acres) \_\_\_\_\_

Zoning District(s) \_\_\_\_\_

Proposed # of Lots: \_\_\_\_\_

Proposed # of Buildings: \_\_\_\_\_

Proposed # of Dwelling Units: \_\_\_\_\_

Does the applicant intend to request any waivers of Subdivision or Zoning Ordinance Provisions?

☐ No

☐ Yes

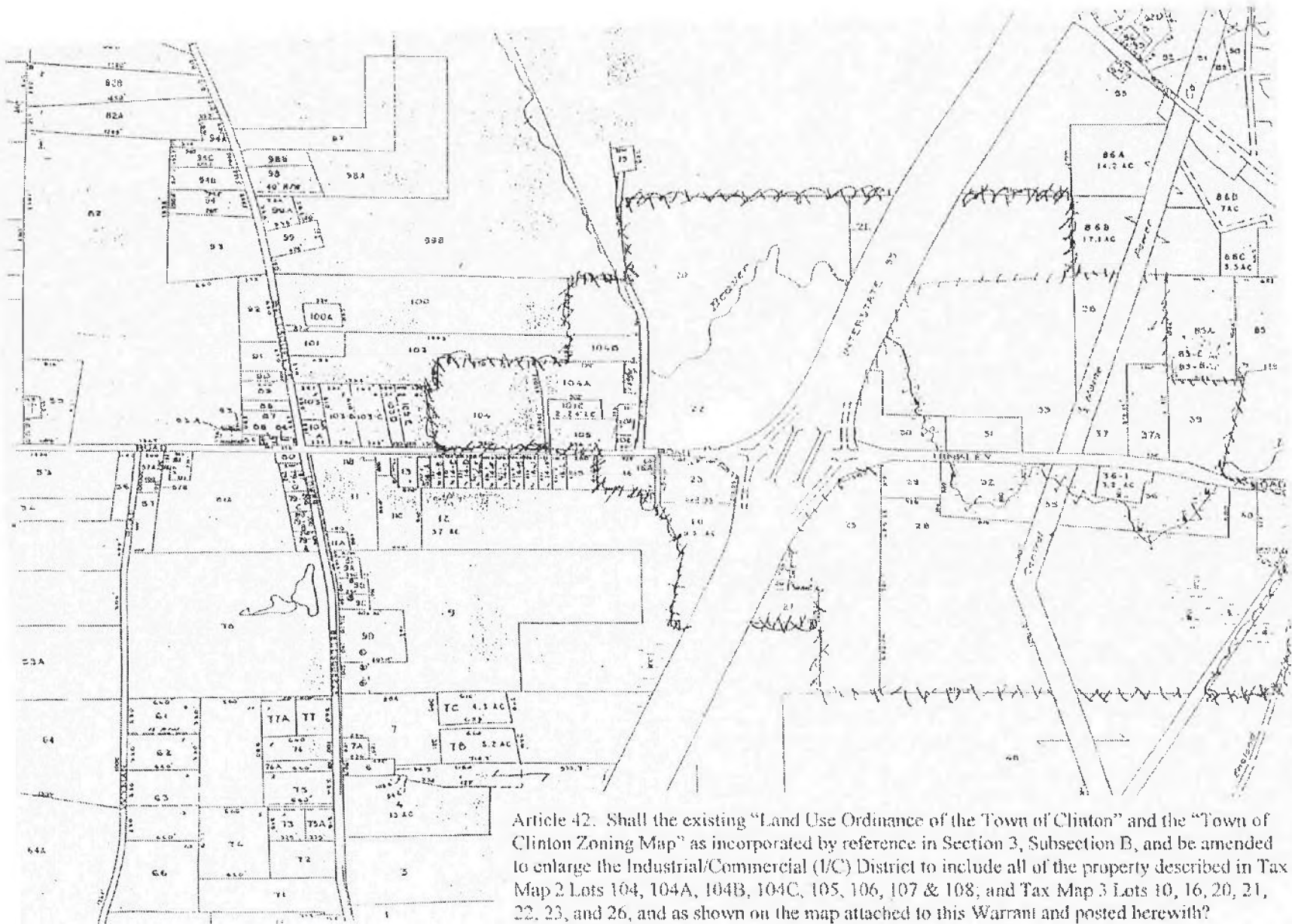
If yes, list the reasons why \_\_\_\_\_

\_\_\_\_\_  
Name and Address of Applicant's Engineer, Land Surveyor or Planner:  
\_\_\_\_\_  
\_\_\_\_\_

The undersigned, being the applicant, owner or legally authorized representative, states that all information contained in this application is true and correct to the best of his/her knowledge and submits the information for review by the town and in accordance with applicable ordinances, statutes and regulations of the Town, State and Federal governments.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant/Owner/Representative



Article 42. Shall the existing "Land Use Ordinance of the Town of Clinton" and the "Town of Clinton Zoning Map" as incorporated by reference in Section 3, Subsection B, and be amended to enlarge the Industrial/Commercial (I/C) District to include all of the property described in Tax Map 2 Lots 104, 104A, 104B, 104C, 105, 106, 107 & 108; and Tax Map 3 Lots 10, 16, 20, 21, 22, 23, and 26, and as shown on the map attached to this Warrant and posted herewith?

Selectmen & Planning Board Recommend

Pass 0 6/12/01



WIND ENERGY FACILITY ORDINANCE TOWN  
OF CLINTON, MAINE

Adopted June 12, 2012

# Wind Energy Facility Ordinance - Town of Clinton, Maine

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## CLINTON WIND ENERGY FACILITY ORDINANCE

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### Section 1.0 Title

This ordinance shall be known as the Wind Energy Facility Ordinance for the Town of Clinton, Maine.

### Section 2.0 Authority

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part Second, Section 1 of the Maine Constitution, 30-A MRSA §3001 and 30-A MRSA §4312 et seq. and consistent with the Town of Clinton's comprehensive land use plan, as amended.

### Section 3.0 Purpose

The purpose of this ordinance is to regulate the siting, construction and operation of Wind Energy Facilities in the Town of Clinton, Maine in order to protect the public health, safety and welfare.

### Section 4.0 Definitions

**Ambient Sound** means at a specified time, the all-encompassing sound associated with a given environment, being usually a composite of sounds from many sources at many directions, near and far, including the specific facility of interest.

**Applicant** means the legal entity that proposes to construct a Wind Energy Facility or conduct an activity regulated under this ordinance and files an application for a permit to do so under this ordinance. "Applicant," sometimes referred to in this ordinance as "Permittee," also means the entity to whom a Wind Energy Facility permit is issued.

**Approved Residential Subdivision** means a residential subdivision for which all applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

**Associated Facilities** means elements of a Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

**Blade Reflection** means the intermittent reflection of the sun off a surface of the blade(s) of a wind turbine.

**Construction** means an activity and operations associated with the facility or expansion of the facility or its site.

**DEP Certification** means a certification issued by the Maine Department of Environmental Protection pursuant to 35-A MRSA §3456 for construction or operation of a wind energy development.

## Wind Energy Facility Ordinance - Town of Clinton, Maine

**Emergency** means any circumstance, condition or situation, whether or not caused or aggravated by a wind energy facility, that presents an imminent threat of physical danger to life or property that calls for immediate action to reduce or mitigate that threat.

**Maintenance and Repairs** means work performed or other measures taken in response to an emergency or routine work necessary to keep the WEF in proper working condition.

**Energy Sum of a Series of Levels** means ten times the logarithm of the arithmetic sum of the antilogarithms of one-tenth of the levels.

**Existing Hourly Sound Level** means the hourly sound level resulting from routine operation of an existing facility prior to the first expansion that is subject to this ordinance.

**Equivalent Sound Level** means the level of the mean-square A-weighted sound pressure during a stated time period, or equivalently the level of the sound exposure during a stated time period divided by the duration of the period. (NOTE: For convenience, a one hour equivalent sound level should begin approximately on the hour.)

**Generating Facilities** means wind turbines and electrical lines, not including Generator Lead Lines, that are immediately associated with the Wind Turbines.

**Generator Lead Line** means a "generator interconnection transmission facility" as defined by 35-A MRSA §3132(1-B).

**Historic Area** means an Historic Site administered by the Bureau of Parks and Lands, Maine Department of Conservation, with the exception of the Arnold Trail.

**Historic Site** means any site, structure, district or archaeological site which is included on the National Register of Historic Places or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance.

**Hourly Sound Level** means the equivalent sound level for one hour measured or computed in accordance with this Ordinance.

**Locally-Designated Passive Recreation Area** means any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: has fixed boundaries; is owned in fee simple or leased by a municipality or is accessible by virtue of public easement; and is identified and described in a local comprehensive plan or other formal designation by the town at the time a complete application for a WEF was filed under this Ordinance.

**Maximum Sound Level** means ten times the common logarithm of the square of the ratio of the maximum sound to the reference sound of 20 micropascals. Symbol: LAFmax.

## Wind Energy Facility Ordinance - Town of Clinton, Maine

Maximum Sound means the largest A-weighted and fast exponential-time-weighted sound during a specified time interval. Unit: pascal (Pa).

Meteorological Tower (MET Tower) means a tower erected for a temporary period or for an indefinite period if permitted in association with a WEF and used for the measurement and collection of wind data that supports various types of equipment, including but not limited to, anemometers, data recorders, and solar power panels. A MET tower may also include wildlife-related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

Municipal Reviewing Authority means the Town of Clinton Planning Board.

Nacelle means the frame and housing at the top of the tower that encloses the gearbox and generator.

Non-Participating Landowner means any landowner, other than a Participating Landowner whose land is located wholly or partially within the town.

Occupied Building means a residence, school, hospital or other established medical facility, nursing home, community building, grange, house of worship, public library or other building that is occupied or in use as a primary residence or at the time of application for a WEF under this Ordinance is customarily frequented by the public.

Participating Landowner means one or more persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the applicant or an entity that has entered into an appropriate agreement with the applicant that allows the applicant to demonstrate the sufficient right, title and interest in such property.

Person means an individual, corporation, partnership, firm, organization or other legal entity.

Permittee means the legal entity to which a permit for a WEF or MET tower is issued.

Planned Residence means a residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Pre-development Ambient means the ambient sound at a specified location in the vicinity of a facility site prior to the construction and operation of the proposed facility or expansion.

Protected Location means any location that is:

- 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a



## Wind Energy Facility Ordinance - Town of Clinton, Maine

residence or planned residence, approved residential subdivision, house of worship, school, college, public library, licensed hospital or other established medical facility or nursing home near the development site on the date a complete application for a WEF was filed under this ordinance;

2) within a state or national park or refuge, a nature preserve owned by a land trust, the Maine Audubon Society or The Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wildlife management area, a state wilderness area designated by statute, a municipal park or beach or a locally-designated passive recreation area, active bald eagle nest, or any location within consolidated public reserve lands designated by rule by the Bureau of Parks and Lands as a Protected Location, or;

3) a hotel, motel, established bed & breakfast, farm, campsite or licensed campground that has been designated a Protected Location due to the potential for adverse economic, health, safety or welfare impacts from construction or operation of a WEF.

Residence means a building or structure including manufactured housing, but excluding recreational vehicles, tents and watercraft, that is maintained for permanent or seasonal residential occupancy and having living, cooking and sleeping facilities, and permanent indoor or outdoor sanitary facilities.

Routine Operations means regular and recurrent operation of regulated sound sources associated with the purpose of the facility and operating on the facility site.

Scenic Resource means either a Scenic Resource of state or national significance, as defined in 35-A MRSA §3451(9) or a scenic resource of local significance located within a town and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the town.

Sensitive Receptor means a residence or other place or structure intended for human habitation, whether inhabited or not, public park, state or federal wildlife area, school, daycare center, elder care facility, medical facility, place of seated assemblage, nonagricultural business, or manicured area of a recreational establishment designed for public use, including but not limited to a golf course, campground or other nonagricultural business licensed by a state or federal agency. A sensitive area is more likely to be sensitive to the exposure of noise, shadow flicker or other potentially adverse effects of a Wind Energy Facility.

Setback as it applies to a wind turbine means the minimal allowable horizontal distance as measured from the center of a wind turbine to a defined point such as a property line.

Setback Area means the entire land area that falls within a specified setback.

Shadow Flicker means alternating changes in light intensity caused by the movement of wind turbine blades casting shadows on the ground or a stationary object.

Short Duration Repetitive Sounds means a sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

Sight Line Representation means a profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed tower.

Significant Wildlife Habitat means a Significant Wildlife Habitat as defined in 38 MRSA §480-B(10).

Sound Components means the measurable sound from an audibly identifiable source or group of sources.

Sound Level means ten times the common logarithm of the square of the ratio of the frequency-weighted and time-exponentially averaged sound pressure to the reference sound of 20 micropascals. For the purpose of this Ordinance, sound level measurements are obtained using the A-weighted frequency response and fast dynamic response of the measuring system, unless otherwise specified.

Sound Pressure means root-mean-square of the instantaneous sound pressures in a stated frequency band and during a specified time interval. Unit: pascal (Pa).

Sound Pressure Level means ten times the common logarithm of the square of the ratio of the sound pressure to the reference sound pressure of 20 micropascals.

Substantial Start means construction has commenced with construction activities beyond site clearing and excavation including, but not limited to, the pouring of a slab or footings, installation of piles, framing, construction of columns, or placement of a tower on a foundation.

Tonal Sound means a tonal sound exists if, at a Protected Location, the one-third octave band sound pressure level in the band containing the tonal sound exceeds the arithmetic average of the sound pressure levels of the two contiguous one-third octave bands by 5 dB for center frequencies at or between 500 Hz and 10,000 Hz, by 8 dB for center frequencies at or between 160 and 400 Hz, and by 15 dB for center frequencies at or between 25 Hz and 125 Hz.

Tower means the free-standing structure on which a wind measuring or energy conversion system is mounted.

Town means the Town of Clinton unless the context clearly indicates otherwise.

## Wind Energy Facility Ordinance - Town of Clinton, Maine

Turbine Height means the distance measured from the surface of the tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Wind Energy Facility sometimes referred to in this ordinance as “WEF”, means a facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Wind Energy Facility includes Generating Facilities and Associated Facilities.

Wind Energy Facility, Type 1A means a Wind Energy Facility having a maximum generating capacity of less than 100kW, a maximum of one Wind Turbine and a maximum turbine height of 80 feet.

Wind Energy Facility, Type 1B means a Wind Energy Facility having: a maximum generating capacity of less than 100kW; more than one wind turbine; or one or more wind turbines with a maximum turbine height of more than 80 feet but less than or equal to 110 feet. A Wind Energy Facility having more than three (3) Type 1B turbines shall be regulated under this ordinance as a Type 2 Wind Energy Facility.

Wind Energy Facility, Type 2 means a Wind Energy Facility having a maximum generating capacity of 100kW or greater and a maximum height of 500 feet, but which does not require a state permit issued by the Maine Department of Environmental Protection (DEP) under the Site Location of Development Act, 38 MRSA §481, et seq. Subject to the requirements of 35-A MRSA §3456, a DEP certificate is required when the energy is for sale or use by a person other than the generator.

Wind Energy Facility, Type 3 means a Wind Energy Facility having a generating capacity of 100kW or greater and a maximum height of 500 feet and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 MRSA §481, et seq.

Wind Turbine means a system for the conversion of wind energy into electricity which is comprised of a tower, generator, Nacelle, rotor and transformer.

Additional acoustical terms used in work associated with this ordinance shall be used in accordance with the following American National Standards Institute (ANSI) standards:

ANSI S12.9-1988 - American National Standard Quantities and Procedures for Description and Measurements of Environmental Sound, Part 1;

ANSI S3.20-1973 – American National Standard Psychoacoustical

Terminology; ANSI S1.1-1960 - American National Standard Acoustical

Terminology.



## Wind Energy Facility Ordinance - Town of Clinton, Maine

### Section 5.0 Applicability

- 5.1 This ordinance applies to any Wind Energy Facility proposed for construction in the Town of Clinton after the effective date of this Ordinance.
- 5.2 A Wind Energy Facility that was lawfully constructed prior to the effective date of this Ordinance is not required to meet the requirements of this ordinance except that any modification to an existing Wind Energy Facility that materially alters the location, size, height, type, design or number of wind turbines requires a permit under this ordinance.
- 5.3 The burdens of proof and compliance with all aspects of this ordinance are on the applicant of a Wind Energy Facility. Approval of a Wind Energy Facility by the town does not relieve the applicant of its responsibility to comply with all applicable provisions of this ordinance.

### Section 6.0 Conflict and Severability

- 6.1 If there is a conflict between provisions of this ordinance, the more stringent provision shall govern. If there is a conflict between a provision of this Ordinance and that of another Town of Clinton ordinance, the provision of this ordinance shall govern, but only as it relates to a Wind Energy Facility.
- 6.2 If there is a conflict between the provisions of this Ordinance and any state rule or law applying to wind energy facilities, the more stringent provision shall govern.
- 6.3 The invalidity of any part of this Ordinance by a court of competent jurisdiction does not invalidate any other part of this Ordinance.

### Section 7.0 Classification of Wind Energy Facilities

Wind Energy Facilities regulated under this ordinance are classified in accordance with the definitions in Section 4 as of the effective date of this ordinance. A WEF having more than three (3) Type 1B turbines is regulated as a Type 2 under this ordinance.

### Section 8.0 Review and Approval Authority

The Planning Board shall review and decide all applications for a Wind Energy Facility or a MET Tower and may approve, deny or approve such applications with conditions in accordance with the provisions of this ordinance.

### Section 9.0 Activities Requiring a Permit



## Wind Energy Facility Ordinance - Town of Clinton, Maine

1. No person may construct or locate a Wind Energy Facility or a MET tower within the Town of Clinton without a permit issued in accordance with this Ordinance.
2. Any physical modification to an existing Wind Energy Facility that materially alters the location or increases the area of development on the site, increases the number, type, design or size of wind turbines or otherwise increases the generating capacity, increases wind tower or turbine height or may increase the level of sound emissions from any wind turbine requires an amended permit under this ordinance.
3. No person may lease, sell, assign or otherwise transfer a Type 2 or 3 Wind Energy Facility or portion thereof without a permit under this ordinance from the Town of Clinton. Such a permit shall be granted only if the applicant or transferee demonstrates to the satisfaction of the planning board that: the transferee has sufficient title, right or interest in the facility; the transferee has the technical capacity and financial ability to fully comply with the provisions of the permit issued for the Wind Energy Facility and this ordinance; and the facility is in substantial compliance with all applicable ordinances and permits.
4. An application to install a MET tower for the purposes of assessing meteorological conditions prior to submission of an application for a WEF is subject to the submission and review standards for a Type 1A Wind Energy Facility, as applicable, except that no tower height limitation shall apply. A permit issued for a MET tower is valid for 30 months from the date of issuance after which the applicant shall remove the MET tower within 30 days and restore the site to its pre-existing condition. The provision for removal of a MET tower does not apply to a MET tower included as permanent Associated Facilities in an approved Wind Energy Facility.

### Section 10.0 Activities Not Requiring a Permit

Normal maintenance and repair activities at an existing and operating Wind Energy Facility do not require a permit, provided that the activity will not result in noncompliance with permit conditions or applicable provisions of any ordinance of the town.

### Section 11.0 Permit Fees Established

At the time of application, the applicant shall submit a nonrefundable permit application fee to the town in accordance with a fee schedule adopted by the selectmen. Within 45 days of the effective date of this ordinance, the selectmen shall adopt an initial fee schedule after having

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provided at least 30 days prior public notice, including notice placed in a weekly newspaper of general circulation in the area. The fee schedule must differentiate between fees for Type 1A and Type 1B facilities and fees for Type 2 and Type 3 facilities.

The selectmen of the town may vote to revise the fees from time to time after having provided at least 30 days prior public notice of their intent to do so, including notice placed in a weekly newspaper of general circulation in the area. Upon adoption, any revised fee schedules shall be appended to this ordinance as Appendix A (Fees).

### Section 12.0 Demonstration of Community Benefits

For an application for Type 2 or Type 3 Wind Energy Facility, an applicant must demonstrate that substantial community benefits will accrue to the town as a result of the construction and operation of the facility. In addition to any other demonstration of community benefits, including significant tangible benefits provided for in a community benefits agreement entered into by the Applicant and the town, the applicant must identify the tax value, direct payments or other financial benefits to be realized and the form and duration of such benefits, and the short-term and long-term jobs to be created, telecommunication infrastructure enhancements or other economic benefits to be realized and the duration of such benefits.

### Section 13.0. RESERVED

### Section 14.0 Administration (Application Review Process)

#### 14.1 For Type 1A Wind Energy Facility Applications

- a. Within 30 days after receiving an application for a WEF, the Planning Board shall review the application for completeness and notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional information needed to complete the application.
- b. The Planning Board shall hold a public hearing on the application.
- c. The Planning Board shall make its decision within 15 days following the close of the hearing, denying the application for a Wind Energy Facility and stating the reasons why it is denied; approving the application for a Wind Energy Facility as proposed; or approving the application subject to conditions. In making its decision, the Planning Board shall make findings on whether the wind energy facility as proposed meets the applicable criteria for approval. A decision of the Planning Board relating to the application shall be made only at a public meeting for which proper public notice has been given.

- d. Upon the agreement of the Planning Board and the applicant, the Planning Board may further extend the procedural time frames set forth in this section.

#### 14.2 For Type 1B, Type 2 and Type 3 Wind Energy Facility Applications

- a. Within 30 days after receiving an application for a Type 1B WEF or 60 days for a Type 2 or 3 WEF, the Planning Board shall review the application for completeness and notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional information needed to complete the application.
- b. The Planning Board shall hold a public hearing on the application for a Type 1B, Type 2 or Type 3 WEF within 30 days after the date the application is determined to be complete.
- c. The Planning Board shall make its decision within 15 days following the close of the hearing for a Type 1B WEF, denying the application for a Wind Energy Facility and stating the reasons why it is denied; approving the application for a Wind Energy Facility as proposed; or approving the application subject to conditions. In making its decision, the Planning Board shall make findings on whether the wind energy facility as proposed meets the applicable criteria for approval.

Within 30 days following the close of the public hearing on an application for a Type 2 or 3 WEF and after review, the Planning Board shall issue a written decision: denying the application for a Wind Energy Facility and stating the reasons why it is denied; approving the application for a Wind Energy Facility as proposed; or approving the application subject to conditions. In making the decision, the Planning board shall make findings on whether the wind energy facility as proposed meets the applicable criteria for approval.

A decision of the Planning Board relating to the application shall be made only at a public meeting for which proper public notice has been given.

- d. The Planning Board may extend the time frame for deciding an application for a Type 2 or 3 WEF for an additional 30 days if it determines such additional time is necessary to fully consider the application.

Upon the agreement of the Planning Board and the applicant, the Planning Board may further extend the procedural time frames of this section.

14.3 Notice of Planning Board meeting

In addition to any notice required by law or town ordinance for a planning board meeting, the Town of Clinton shall, at the applicant's expense, give notice by first class mail to the applicant, and all owners of property abutting the property on which the Wind Energy Facility is proposed to be located at least 10 days prior to any meeting, including a public hearing, at which an application for a Type 1A or 1B, Type 2, or Type 3 Wind Energy Facility is to be considered.

For Type 2 or a Type 3 WEF, notice shall be given to all owners of record of property within 1 mile of the property. Such notice must also be prominently posted at the community building at that time. The Applicant shall pay the town the total costs of such notice within 10 days of having been sent an invoice by the town for the costs of the notice.

The notice must state the date, time and place of the meeting and the name and address of the applicant, proposed WEF size and location, type of Wind Energy Facility and nature of the action to be considered by the Planning Board.

14.4 Public hearing notice to be given in newspaper and at town office

The Town of Clinton shall post notice of the date, time, and place of any public hearing on a proposed Wind Energy Facility at least once in a newspaper of general circulation in the area at least 14 days prior to the hearing. At that time, such notice must also be prominently posted at the community building or other public location where official town notices are posted.

14.5 Professional services retained by town

In order to assist the Planning Board in its review of an application for a WEF, the Town of Clinton may retain professional services, including but not limited to those of an attorney or land use or technical consultant, to evaluate the proposal and potential impacts and whether the application meets the criteria set forth the ordinances of the town. Upon presentation of a reasonable estimate of the cost of such evaluation by the town, the applicant shall deposit with the town the full estimated cost, which the town must place in an escrow account.

The town shall pay the costs of the professional services from the escrow account and shall reimburse any unspent funds to the applicant following the final decision by the town on the application and exhaustion of any appeals.

14.6 Expiration of WEF Permit

A WEF permit issued by the Planning Board expires 24 months following the date of approval unless construction has substantially started. Upon the expiration of a permit, the applicant may not begin to construct or operate a WEF unless and until a new approval is granted. If

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construction of the approved WEF has substantially started but is not completed within 36 months following the date of approval, the permit expires. Upon the Applicant's written request and for good cause, the Planning Board may extend the 24-month or 36-month expiration date., which may not be more than 24 additional months.

If a permit for a Type 2 or Type 3 Wind Energy Facility expires, the applicant shall immediately implement pertinent provisions of the approved decommissioning plan.

### 14.7 Access during application review and following issuance of a permit

The code enforcement officer or other authorized representative of the town shall be allowed access to the site at all reasonable times for the purposes of evaluating the WEF proposal, reviewing the progress of the work or assuring compliance with the conditions of any permit and of this ordinance. They have authority to inspect all records and documents of the applicant or WEF operator that relate to the design, construction and operation and compliance of the facility.

### 14.8 Enforcement

No person may violate or fail to comply with or take any action that is contrary to the provisions of this Ordinance, or violate or fail to comply with any permit issued under this Ordinance, or to cause another to violate or fail to comply or take any action that is contrary to the provisions of this Ordinance or any permit under this Ordinance. Consistent with the provisions of 30-A MRSA, section 4452 or its successor, the town may institute civil enforcement proceedings or any other remedy at law to ensure compliance with this Ordinance and any permit issued there under.

### 14.9 Appeals

Any Person aggrieved by a decision of the Planning Board made under this ordinance may appeal the decision to the Board of Appeals within 30 days of the date of decision, as provided by Section XV.G of the Town of Clinton Land Use Ordinance.

### Section 15.0 Pre-application Meeting

Prior to filing an application for a Type 1B, Type 2 or Type 3 WEF application, the applicant is strongly encouraged to meet with the Planning Board to discuss the application requirements. At such a pre-application meeting, the Planning Board can explain the ordinance's provisions, application forms, and submission requirements. At that time, the applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location, lot area and current zoning designations. Such discussions with the Planning Board are informational only and may not be construed to decide, formally or informally, on the merits of any substantive aspects of proposal under discussion.



## Section 16.0 Permit Application

### 16.1 Application components.

A Wind Energy Facility permit application shall consist of a permit application fee, completed application form and all supporting documents as described below:

- a. Application Form. The application form provided by the Town of Clinton that shall be signed and dated by the applicant. The signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the provisions of this ordinance, permit(s) issued and all conditions of approval, if any.
- b. Application Fee. Submission of the full amount of the application fee at the time of submission of the application.
- c. Demonstration of Community Benefit. For an application for Type 2 or Type 3 Wind Energy Facility, a demonstration of substantial community benefits.
- d. Supporting Documents. The application must include all documents necessary to satisfy the applicable submission requirements under this Ordinance.

### 16.2 Application submission.

The applicant shall submit two (2) complete copies of the application in paper format including all supporting documents, such documents being titled and sequentially numbered, except that for Type 2 and 3 WEF applications, the applicant must submit ten (10) complete copies. For Type 2 and 3 WEF applications, the applicant shall also submit one complete copy in an electronic format determined by the planning board. The submissions must be made to the town office c/o the planning board.

### 16.3 Changes to a pending application

- a. The applicant shall promptly notify the Planning Board in writing of any changes the applicant proposes to make to information contained in the application. The Planning Board may require an application to be resubmitted and the review periods restarted if it determines the changes modify the applicant's proposal materially.
- b. If an applicant proposes modifications to a pending application during or after a public hearing on the application has been held, the Planning Board must continue the hearing to another date or reopen the public hearing if it determines

the proposed modifications materially alter the proposal.

## Section 17.0 Application Submission Requirements

### General Submission Requirements

- 17.1. A completed application form including:
  - a. The applicant and Participating Landowner(s)' name, principal place of business, physical and mailing addresses, telephone number, fax number and email address.
  - b. The tax map number, zone, current use, deed book and page number and the name and address of the owner(s) of the proposed facility site and of any contiguous parcels owned by Participating Landowners.
  - c. The tax map number, zone, current use, deed book and page number and the name and address of the owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site.
  - d. A narrative description of the proposed WEF, including an overview of the project, project schedule, project location, elevation of land upon which the wind tower(s) will be placed, number of wind towers and their height, generating capacity of the WEF, area affected, prevailing winds at the project location, road access to the site and receiving transmission line location.
  - e. Evidence of the applicant's technical and financial ability to construct and operate the project as proposed during the expected period of operation.
- 17.2 A copy of a deed, easement, lease, purchase option or other comparable legal documentation demonstrating that the applicant has right, title or interest in the proposed facility site.
- 17.3 Location map, drawn to scale, showing the boundaries of the proposed facility site and all contiguous property under total or partial control of the applicant or Participating Landowner(s) and any public way, above ground utility lines, designated floodplain, deer wintering area, bald eagle nests, state or federally designated wetlands, Scenic Resource, Historic Site or Area, Significant Wildlife Habitat, Locally-designated Passive Recreation Area, residence or planned residence, approved residential subdivision, Occupied Building or Protected Location within 1.5 miles of the proposed development, and depicting the current zoning designations for the area.

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- 17.4 Detailed description of the proposed Wind Energy Facility that includes the number, aggregate generating capacity of all wind turbines, manufacturer's specifications for each Wind Turbine, including but not limited to the make, model, maximum generating capacity, sound emission levels and types of overspeed controls, wind tower heights and tower footprint, and a description of Associated Facilities.
- 17.5. Site plan showing the proposed location of each wind turbine, the ground area occupied by the turbine, and Associated Facilities and any of the following features located within 1,500 feet of any Type 1A or 1B wind turbine or within 1 mile for Type 2 or 3 wind turbines; parcel boundaries, required setbacks, topographic contour lines (maximum 20-foot interval), roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be re-graded, cleared of vegetation or otherwise altered.
  - a. Site plans for Type 1B, Type 2 and Type 3 Wind Energy Facilities must also show the location and average height of tree cover to be retained and the location, variety, planting height and mature height of proposed trees, if any.
- 17.6. Written evidence that the Environmental Coordinator for the Maine Department of Inland Fisheries and Wildlife (MDIFW) and the Maine Natural Areas Program (MNAP) have both been notified of the pending application and the location and turbine height of all proposed wind turbines, and inclusion of any comments and recommendations made by those agencies or other group recommended by either agency.
- 17.7. Written evidence that the provider of electrical service to the property has been notified of the applicant's intent to connect an electric generator to the electricity grid, if such connection is proposed, and the provider's agreement to accept such electricity when generated by the WEF.
- 17.8 Detailed description of the proposed emergency and normal shutdown procedures for the WEF, including notifications to the provider of electrical service, the town and the public.
- 17.9. Photographs in sufficient quantity and detail that fairly represent pre-construction conditions at the site, and for a Type 2 or Type 3 Wind Energy Facility, an aerial photograph depicting the project parcels, Participating Landowner parcels and all Non-Participating parcels located within 1 mile of the proposed facility.
- 17.10 An application for a Type 1A or 1B Wind Energy Facility must include structural drawings of the tower foundation and anchoring system prepared and certified by the Wind Turbine or Tower manufacturer or prepared and stamped by a Maine-licensed professional engineer qualified to prepare such drawings. Furthermore, it must be designed with setbacks as specified in this Ordinance.
- 17.11. An application for a Type 1A or Type 1B Wind Energy Facility shall include a written

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statement, signed by the applicant, that certifies that the proposed facility is designed to meet the applicable noise control provisions of this ordinance and acknowledges the applicant's obligation to take remedial action in the event those standards are not being met.

- 17.12. An application for Type 1B, Type 2 or Type 3 Wind Energy Facility must include the following sight line, photographic and, if applicable, screening information, provided that an Applicant for a Type 3 Wind Energy Facility may provide this information as part of a visual assessment if required pursuant to section 20.5:
- a. Sight line representations of each Wind Turbine from the nearest Occupied Building and from at least five other representative locations within 1 mile of the Wind Turbine, such as a Scenic Resource or another Occupied Building. Each sight site line representation must be drawn at a scale sufficiently large to make it legible. If screening is proposed, the proposed screening device, such as trees, shrubs or fencing, must be depicted on the drawing along with the sight line as altered by the screening.
  - b. A current four-inch by six-inch or greater color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the sight line representations, or a computer-generated image if the owner of the subject property does not allow the Applicant to access the property.
  - c. One copy of each of the photographs described in b, above, onto which is superimposed an accurately-scaled and sited representation of the Wind Turbine(s).
  - d. Standard boundary survey of the subject property, giving complete descriptive data by bearings and distances, made and certified by a Maine-licensed surveyor. The Planning Board may waive this requirement for a Type 1A or Type 1B WEF if it determines that the Applicant has provided information sufficient to identify property boundaries to the extent necessary.
- 17.13. An application for a Type 2 Wind Energy Facility that generates energy primarily for sale or use by a person other than the generator, must include, if issued at the time of application, certification from the Department of Environmental Protection pursuant to 35-A MRSA. §3456 that the Wind Energy Facility:
- a. will meet the requirements of the noise control rules adopted by the Board of Environmental Protection pursuant to the Site Location of Development Act, 38 M.R.S. §481, et seq. and the standards set forth in Appendix B of this ordinance;
  - b. will be designed and sited to avoid adverse Shadow Flicker effects that result in

flicker or blade reflections falling on a sensitive receptor, as provided in this Ordinance. An exception to this standard may be made only if the flicker or reflection does not exceed ten (10) hours per year for any given receptor or if the applicant enters into a binding agreement with an affected land owner waiving this standard for property controlled by the land owner; and

- c. will be constructed with setbacks adequate to protect neighboring properties and public safety and mitigate adverse noise effects from operation of a wind turbine.

If such certification has not been issued at the time of application, the applicant shall include written evidence that the Applicant has applied for certification and shall submit such certification to the Planning Board upon its issuance. The Planning Board may postpone its decision on the application until it receives evidence of such authorization.

17.14 Additional Submission Requirements for an Application for a Type 2 and 3 Wind Energy Facility

The applicant shall provide the following.

1. Certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, or other similar certifying organizations.
2. Decommissioning plan in conformance with Appendix C, including provisions for financial surety to ensure completion of decommissioning and site restoration.
3. Written summary of operation and maintenance procedures for the Wind Energy Facility and a maintenance plan for access roads, erosion and sedimentation controls and storm water management facilities.
4. Visual impact assessment, if required pursuant to section 20.5.
5. Storm water management plan stamped by a Maine-licensed professional engineer.
6. Shadow flicker analysis based on WindPro or other modeling software approved for use by the Department of Environmental Protection.
7. Foundation and anchoring system drawings that are stamped by a Maine-licensed professional engineer.
8. A blasting plan prepared in accordance with all applicable state laws and rules and with the standards set forth in Appendix D of this Ordinance. Blasting may occur only after the Applicant has received approval for such operations and must comply with the

## Wind Energy Facility Ordinance - Town of Clinton, Maine

provisions established by the Department of Environmental Protection under 38 MRSA, Chapter 3, Subchapter 1, Article 8-A, § 490-Z(14).

9. A sound study prepared by a qualified firm having expertise in noise and acoustical assessments. The study must include pre-construction sound levels at representative key receptor sites over multiple periods and a computer modeling that projects post-construction noise levels in each direction for a distance of wind three miles from the Wind Energy Facility.
10. A fire prevention and emergency response plan including provisions for annual training for local and regional fire and emergency response personnel.
11. A facility security plan, including limiting unauthorized access to wind turbines.
12. Other relevant studies, reports, certifications and approvals as may be reasonably requested by the Town of Clinton to ensure compliance with this Ordinance, including but not limited to a meteorological assessment of the wind resources and speed in the project area, sound analysis and land uses within two miles of the project area.

### Section 18.0 General Standards

#### 18.1 Allowed Land Use Zones for WEF

No permit for a WEF may be granted for uses not allowed in a given zoning district as specified in the Town of Clinton Land Use Ordinance.

#### 18.2 Maximum Turbine Height

The height of any turbine may not exceed the following:

- for a Type 1A WEF: 80 feet;
- for a Type 1B WEF: 110 feet
- for a Type 2 or Type 3 WEF: 500 feet.

#### 18.3 Turbine Safety Setback Distances

A Type 1A, 1B, 2 or 3 wind turbine must be set back a horizontal distance of at least 150% of the turbine height from all property boundaries, public and private rights-of-way, and from overhead utility lines that are not part of the proposed Generating Facility except that the Planning Board may establish a reduced setback from a property boundary up to a distance no less than 110% of the turbine height from any building if the Applicant submits a signed and notarized statement signed by the applicable abutting landowner attesting to the landowner's



agreement to a waiver or reduction in the setback requirement. The Planning Board may also waive or reduce a setback from a private right-of-way owned by a Participating Landowner if the Applicant submits a signed and notarized statement signed by the Participating Landowner attesting to the landowner's agreement to a waiver or reduction in the setback requirement.

#### 18.4 Community and Environmental Protection Setback Distances

Notwithstanding any other setback provision contained in this Ordinance, no Type 2 or Type 3 wind turbine may be constructed or operated within 5,280 feet of any Sensitive Receptor or Scenic Resource or within 6,600 feet of any great pond.

#### 18.5 Natural Resource Protection

A Wind Energy Facility may not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the Planning Board may consider relevant written comments or recommendations, if any, from the Maine Department of Inland Fisheries and Wildlife and the Maine Natural Areas Program.

#### 18.6 Building Codes

All components of the Wind Energy Facility must conform to all applicable local and state building codes and all applicable life safety codes.

#### 18.7 Overspeed Controls and Brakes

Each wind turbine must be equipped with an overspeed control system that: includes both an aerodynamic control such as stall regulation, variable blade pitch, tip or other similar system, and a mechanical brake that operates in fail safe mode; and has been designed by the manufacturer or a qualified licensed civil engineer, certified to protect the public safety during all periods of operation of the turbine and found by the Planning Board based upon its review to protect public safety.

#### 18.8 Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to all applicable local, state, and national codes.

#### 18.9 Access Control to Turbines and Equipment

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower may not be climbable up to a minimum of fifteen (15) feet above ground surface unless such access is from

the inside of a wind tower having controlled access.

18.10 Minimum Blade Clearance from Ground

The minimum distance between the ground and the outer edge of all blades of a Type 1A or Type 1B wind turbine is 25 feet as measured at the lowest arc of the blades. For Type 2 or Type 3 type wind turbines, the minimum distance is 40 feet.

18.11 Signal Interference

The WEF must be sited and operated such that it may not cause any significant disruption or loss of radio, telephone, cellular phone, television, or similar signals. If construction or operation of the WEF results in demonstrated significant disruption or loss of signals, the applicant shall provide alternate but substantially equivalent signals or service. For the purposes of this section, "significant disruption means degradation of service that limits use of the service or signal noticeably more than 5% of the time of service operation.

18.12 Structure Type

With the exception of MET towers, wind towers must be monopoles having no guy wires. Bird flight diverters must be installed on all guy wires associated with a MET tower that is permitted.

18.13 Erosion Control Measures

Erosion of soil and sedimentation must be minimized by employing "best management practices" in the "Maine Erosion Control Handbook for Construction: Best Management Practices", March 2003, or successor edition if issued by the date of filing of an application for a wind energy facility.

18.14 Building-mounted Wind Turbines

Building-mounted wind turbines are prohibited.

18.15 Visual Appearance

1. A Wind Turbine must be constructed or painted of a color that is non-obtrusive such as white, off-white or gray, or as otherwise required by another governmental agency having jurisdiction over the Wind Energy Facility.
2. A Wind Turbine may not be lighted artificially, except to the extent necessary to comply with requirements of the Federal Aviation Administration or other applicable authority that regulates air safety, or as is otherwise required by another governmental agency having jurisdiction over the Wind Energy Facility. The Applicant shall submit a statement from the Federal Aviation Administration that it approves or has no objections to the proposed wind tower design, height or and location.

3. A Wind Turbine may not be used to support signs and may not display advertising or other promotional information except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

#### 18.16 Visibility of Wind Turbine

The following requirements apply to Type 1B and Type 2 Wind Energy Facilities:

1. To the extent that doing so does not unreasonably block access to the wind resource, each Wind Turbine must be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening the Wind Turbine from residences and Scenic Resources.
2. If existing features do not screen a Wind Turbine from residences or Scenic Resources, the applicant may be required to take reasonable and effective measures to provide screening, including but not limited to, planting of trees or shrubs and minor relocation of a proposed wind turbine. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

#### 18.17 Recording of Mitigation Waivers and Agreements

In order for a mitigation waiver or other agreement entered into by the Applicant and a Participating Land Owner or other person to be considered valid and recognized as effective under this Ordinance, the waiver or agreement must be recorded in the Kennebec County Registry of Deeds and a copy filed with the town clerk. Such a waiver or other agreement must be signed and dated by all parties to the agreement and must include a description of the property affected, registry book and page number, relevant provision(s) of the ordinance, and duration of waiver or agreement.

### Section 19.0 Special Standards for Type 1A and Type 1B Wind Energy Facilities

#### 19.1 Noise Standards.

Sounds emanating from a Type 1A or Type 1B Wind Energy Facility are subject to the provisions of this section

1. The sound level limits contained in this section apply only to areas that are defined as Protected Locations and to property boundaries that describe the outer limits of the facility site in combination with any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site.
2. The sound level limits in this section do not apply to the facility site or any land

owned by a Participating Land-Owner that are contiguous with the facility site.

3. The sound levels resulting from routine operation of a Wind Energy Facility, as measured in accordance with the procedures described in section 19.1.5 may not exceed the limits specified for the following locations and times:
  - a. At a Protected Location: 35 dBA between 6:00 p.m. and 7:00 a.m. or 5 dBA above the ambient sound level whichever is less; and 45 dBA between 7:00 a.m. and 6:00 p.m. or 5 dBA above the ambient sound level whichever is less; and
  - b. At the property boundaries that describe the outer limits of the facility site combined with any parcel(s) owned by a Participating Landowner that are contiguous with the facility site:

55 dBA at any time.

4. The town may perform measurements of sound levels resulting from routine operation of an installed Type 1A or Type 1B Wind Energy Facility at the town's own initiative or in response to a noise-related complaint to determine compliance with the applicable noise standards and conditions of the permit. When doing so, the town shall perform the measurements in accordance with the protocols established by a qualified noise consultant retained by the town or alternatively, as follows:
  - a. Measurements shall be obtained during representative weather conditions when the sound of the Wind Energy Facility is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the Wind Turbine and inversion periods (which most commonly occur at night).
  - b. Sound levels shall be measured at least four (4) feet above the ground by a meter set on the A-weighted response scale, fast response. The meter must meet the latest version of American National Standards Institute (ANSI S1.4.) "American Standard Specification for General Purpose Sound Level Meters" and must have been calibrated at a recognized laboratory within the past year.
  - c. When determining the sound level, 5 dBA must be added to measured sound levels of any Short Duration Repetitive Sound measured in accordance with paragraphs a and b.
  - d. If a violation is found, all costs associated with the measurements required by this section shall be borne by the applicant, in addition to any other remedial sanctions.

5. The Applicant shall operate the proposed Wind Energy Facility in conformance with the applicable sound level limits, and shall take remedial action to ensure compliance with those limits, including as necessary:
  - a. modification or limitation of operations during certain hours or wind conditions;
  - b. maintenance, repair, modification or replacement of equipment;
  - c. relocation of the Wind Turbine(s), for which town approval is required; and, d. removal of the Wind Turbine(s).

#### 19.2 Shadow Flicker and Blade Reflection

A Type 1A or Type 1B Wind Energy Facility may not cause an unreasonable adverse shadow flicker or blade reflection effect at any Occupied Building or residence located on a Non-Participating Landowner's property. For the purposes of this section, "unreasonable adverse shadow flicker or blade reflection" means shadow flicker or blade reflection occurring for 3 days or more in any one month that, if annualized, would total more than 10 hours of flicker or reflection per year. In addition, a wind turbine, including its blades, must be constructed of non-reflective materials or its surface painted so as to be non-reflective.

#### 19.3 Discontinued Use

1. A Type 1A or Type 1B Wind Energy Facility that has not generated electricity for twelve (12) consecutive months or 12 months in a 15-month period is deemed a discontinued use and must be removed from the property by the applicant within 120 days of receipt of notice from the town, unless the applicant demonstrates by a preponderance of the evidence that facility has not been discontinued and, therefore, should not be removed. If the Wind Energy Facility is not removed within the time period specified by the town, the town may remove the facility at the applicant's expense. The applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.
2. If a surety has been given to the town for removal of a Type 1B Wind Energy Facility, the applicant may apply to the town for release of the surety when the Wind Energy Facility has been removed to the satisfaction of the town.

#### Section 20.0 Special Standards for Type 2 and Type 3 Wind Energy Facilities

## 20.1 Noise Standards

Noise resulting from a Type 2 Wind Energy Facility or a Type 3 Wind Energy Facility is subject to and controlled in accordance with the provisions of Appendix B.

If there is a conflict between a provision of Appendix B and another provision of this ordinance, the provision of Appendix B shall apply.

Beginning during the period April through December of the 1<sup>st</sup> year of commencement of operation of an approved Wind Energy Facility, the applicant shall arrange a post-construction sound study with all wind turbines operating to be performed by a qualified firm to determine actual noise levels from the WEF and assess compliance with noise standards set forth in the facility permit and this ordinance. The Applicant shall notify the Planning Board at least 30 days prior to conducting the study and the town may observe all field work and shall be given an opportunity to review the study's methodology and results. A second sound study must be performed during the same period in the second year and at least every 3 years thereafter.

## 20.2 Use of Public Roads

1. The applicant shall identify all state and local public roads to be used within the Town of Clinton to transport equipment and parts for construction, operation, maintenance or dismantling of a Type 2 or Type 3 Wind Energy Facility.
2. The Town Engineer or Road Commissioner or a qualified third-party engineer acceptable to the Planning Board and paid for by the applicant pursuant to Section 14.5 of the Ordinance, shall document road conditions prior to construction or other related activity. Such person shall document road conditions again thirty (30) days after construction is complete or as soon as weather permits.
3. The applicant shall, at its own expense, promptly repair any road damage caused by the applicant or its contractors. The applicant shall demonstrate, to the satisfaction of the Planning Board that it has financial resources sufficient to promptly repair any damage to roads, including culverts, caused by the applicant or its contractors to the local or state road standards, as applicable. The town may require the applicant to post a bond or other security in order to ensure compliance with this provision.

## 20.3 Warning Signs

A clearly visible warning sign concerning voltage must be placed and maintained at the base of all pad-mounted transformers and substations. A warning sign must also be placed at the base of each turbine.



20.4 Artificial Habitat for Raptors

The applicant shall design the wind energy facility to minimize the creation of artificial habitat for raptors or raptor prey. The applicant shall consider and incorporate to the extent feasible comments and recommendations provided by the Maine Department of Inland Fisheries and Wildlife relating to raptor habitat.

20.5 Effect on Scenic Resources

1. Except as otherwise provided in this subsection, if a Type 2 or Type 3 Wind Energy Facility is proposed for location in or is visible from a Scenic Resource, the applicant shall provide to the Planning Board a visual impact assessment as part of its application. The assessment must address the evaluation criteria set forth in subsection 20.5.3. There is a rebuttable presumption that the proposed facility will not create an undue visual impact on the area and, therefore, no visual impact assessment is required for those portions of a Type 2 or Type 3 Wind Energy Facility that are located more than 3 miles, measured horizontally, from the nearest Scenic Resource. However, the Planning Board may require a visual impact assessment for portions of the Type 2 or Type 3 Wind Energy Facility located more than 3 miles and up to 8 miles from a Scenic Resource if it determines that a visual impact assessment is needed to assess the potential for significant adverse effects on a Scenic Resource. The Planning Board may determine that the presumption is rebutted based on a preponderance of evidence made available to the board within 30 days of determination that the application is complete.
2. The Planning Board shall determine, based on consideration of the evaluation criteria in subsection 20.5.3, whether the Type 2 or 3 Wind Energy Facility significantly compromises views from a Scenic Resource such that the proposed facility has an unreasonable adverse effect on the scenic character or existing uses related to scenic character of that Scenic Resource.
3. In making its determination pursuant to subsection 20.5.2, and in determining whether an Applicant for a Type 2 or 3 Wind Energy Facility located more than 3 miles from a Scenic Resource must provide a visual impact assessment in accordance with subsection 20.5.1, the Planning Board shall consider:
  - a. The significance of the potentially affected Scenic Resource;
  - b. The existing character of the surrounding area;
  - c. The expectations of the typical viewer;
  - d. The Type 2 or Type 3 Wind Energy Facility's purpose and the context of the proposed activity;

- e. The extent, nature and duration of potentially affected public uses of the Scenic Resource and the potential effect on the public's continued use and enjoyment of the Scenic Resource; and
- f. The scope and scale of the potential effect of views of the Wind Energy Facility on the Scenic Resource, including but not limited to issues related to the number and extent of Wind Turbines visible from the Scenic Resource, the distance from the Scenic Resource and the effect of prominent features of the Wind Energy Facility on the landscape.

A finding by the Planning Board that the Type 2 or Type 3 Wind Energy Facility is a highly visible feature in the landscape is not a solely sufficient basis for determination that it has an unreasonable adverse effect on the scenic character and existing uses related to scenic character of a Scenic Resource. In making its determination under subsection 20.5.2, the Planning Board may not consider the scenic effects of any portion of a Type 2 or Type 3 Wind Energy Facility that is located more than 8 miles, measured horizontally, from a Scenic Resource.

#### 20.6 Shadow Flicker and Blade Reflection

Type 2 and Type 3 Wind Energy Facilities may not cause an unreasonable adverse shadow flicker or blade reflection effect at any Occupied Building or residence located on a Non-Participating Landowner's property. For the purposes of this section, "unreasonable adverse shadow flicker or blade reflection" means shadow flicker or blade reflection occurring for 3 days of more in any one month that, if annualized, would total more than 10 hours of flicker or reflection per year. In addition, a wind turbine, including its blades, must be constructed of non-reflective materials or its surface painted so as to be non-reflective. As part of its application, the applicant shall include a detailed shadow flicker and blade glint assessment, developed through modeling and prepared by a person qualified to conduct such an assessment, and an estimate of the projected extent of flicker and glint. The assessment must meet the following:

- A. The assessment must identify Sensitive Receptors and public ways, model the locations and durations of shadow flicker caused by the proposed WEF within the study area and project the frequency and duration of shadow flicker within 200 feet of those locations throughout the study area.

#### 20.7 Relationship to DEP Certification and Permitting

- 1. For a Type 2 Wind Energy Facility for which a Department of Environmental Protection (DEP) Certification has been issued in accordance with section 17.13, the Planning Board may, but is not required to, consider applicable findings of fact and conclusions of law made in the department-issued certification when making its

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determination under sections 18.3, 20.1, and 20.6 and may rely upon those findings and conclusions in its decision on the application.

2. If DEP has issued a Site Location of Development Act permit for a Type 3 Wind Energy Facility pursuant to 38 M.R.S. §484(3), the Planning Board may, but is not required to, consider applicable findings of fact and conclusions of law made in the department-issued permit when making its determination whether the proposal meets the requirements of sections 18.3, 18.5, 20.1, 20.6, 20.12 and, as it pertains to Scenic Resources of state or national significance as defined by 35-A M.R.S. §3451(9), section 20.5 and may rely upon those findings and conclusions in its decision on the application.

### 20.8 Local Emergency Services

1. The Applicant shall provide a copy of the project summary and site plan to local emergency service providers, including paid or volunteer fire department(s).
2. Upon request, the Applicant shall cooperate with emergency service providers to develop and coordinate implementation of an emergency response plan for a Type 2 or Type 3 Wind Energy Facility.
3. A Wind Turbine shall be equipped with an appropriate fire suppression system to address fires within the Nacelle portion of the turbine or shall otherwise address the issue of fire safety to the satisfaction of the Planning Board.

### 20.9 Liability Insurance

The Applicant or an Applicant's designee acceptable to the Planning Board shall maintain a current general liability policy for the Type 2 or Type 3 Wind Energy Facility that covers bodily injury and property damage with limits in an amount commensurate with the scope and scale of the Wind Energy Facility. The Applicant or its designee shall make certificates of insurance available to the town upon request.

### 20.10 Design Safety Certification

Each Wind Turbine shall conform to applicable industry standards including those of the American National Standards Institute (ANSI) and at least one of the following: Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energies, or other similar certifying organization.

### 20.11 Public Inquiries and Complaints

1. At all times during the life of the facility, the Applicant or its designee shall maintain a toll-free telephone number 24 hours a day, 365 days a year that allows any member of the public to contact the facility operator with inquiries or complaints and shall

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also identify a person representing the facility who is responsible for answering the inquiries and complaints. The Applicant shall maintain a log of such inquiries and complaints and the Applicant's response to them.

2. The Applicant or its designee shall make reasonable efforts to respond to the public's inquiries and complaints and shall provide written copies of all complaints and the company's resolution or response to the town upon request.

### 20.12 Decommissioning

The Applicant shall prepare a decommissioning plan in conformance with Appendix C, including provisions for financial assurance. The Applicant shall, at its expense, commence and complete decommissioning of the Wind Energy Facility or portion thereof within: twelve (12) months after the end of the useful life of the facility of portion thereof; or as otherwise specified in the facility proposal as approved by the Planning Board. A Wind Energy Facility is presumed to have reached the end of its useful life if does not generate electricity for a continuous period of twelve (12) months or for 12 months in a 15-month period.

### 20.13 Emergencies and Emergency Shutdown of Facility

The Applicant shall immediately cease operations and shutdown all wind turbines for the duration of any emergency. "Emergency" means any condition or situation caused or aggravated by a wind energy facility that presents an imminent threat of physical danger to life or property. The applicant shall immediately notify the Town of Clinton Fire Department of any emergency condition.

### 20.14 Blasting

The Applicant shall not undertake any blasting in connection with construction or operation of a Wind Energy Facility unless the applicant has first provided notice to the town and filed a plan for blasting that is in accordance with all applicable laws and rules and standards set forth in Appendix D, and approved by the Planning Board. Furthermore, no blasting may occur without the applicant giving 48 hour prior notice to all property owners within 2 miles of the blast site.

### 20.15 As-built Plans

Within 60 days of completion of the WEF and commencement of operation, the Applicant shall provide the Planning Board with two complete sets of construction plans that depict the facility as actually constructed. Major deviations from the proposed project plans must be prominently noted on the plans.

## Section 21.0 Effective Date

Having been approved by Town vote held on January 19, 2011, this ordinance is effective as of

that date. \_\_\_\_\_.

## APPENDIX A

### Noise Standards

A Type 2 or Type 3 Wind Energy Facility is subject to the following noise standards.

#### A. Sound Level Limits

##### (1) Sound from Routine Operation of Facility.

- (a) The hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F may not exceed the following limits:

- (i) At any property line of the facility site or contiguous property owned by the Applicant or Participating Land Owner(s), whichever is further from the proposed facility's sound sources:

75 dBA at any time of day or night.

- (ii) Within 660 feet of any Protected Location:

55 dBA between 7:00 a.m. and 6:00 p.m. (the "daytime hourly limit"), and  
40 dBA between 6:00 p.m. and 7:00 a.m. (the "nighttime hourly limit").

- (b) For the purposes of determining compliance with the above sound level limits, 5 dBA must be added to the observed measurements of any tonal sounds that result from routine operation of the facility. For example, if sound from the facility is measured to be 50 dBA, then the sound level for the purposes of determining compliance with the sound level limits set forth in (a) above is 55 dBA.
- (c) When routine operation of a facility produces short duration repetitive sound, the following limits apply:
  - (i) For short duration repetitive sounds, 5 dBA must be added to the observed measurements of the short duration repetitive sounds that result from routine

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operation of the facility for the purposes of determining compliance with the above sound level limits.

- (ii) For short duration repetitive sounds which the Planning Board determines are particularly annoying or pose a threat to the health and welfare of other persons due to their character or duration, a second 5 dBA increment must be added to the observed levels of the short duration repetitive sounds that result from routine operation of the facility for the purposes of determining compliance with the above sound level limits, and the maximum sound level of the short duration repetitive sounds shall not exceed the following limits:

- (a) Within 660 feet of any Protected Location 55 dBA at any time of day or night.

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NOTE: The maximum sound level of the short duration repetitive sound must be measured using the fast response [ $L_{AFmax}$ ]. See the definition of maximum sound level.

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- (d) In addition to the above limits, the hourly sound levels resulting from routine operation of the facility and measured in accordance with the measurement procedures described in subsection F may not exceed 35 dBA at any location greater than 2 miles from a wind turbine.

### (2) Sound from Construction of a Facility

- (a) Sound from construction activities at the facility location occurring between 6:00 p.m. and 7:00 a.m. is subject to the following limits:
  - (i) Sound from construction activities, including construction activities conducted concurrently with routine operation of the facility, may not exceed the limit set forth in 1(a) (ii) above.
- (b) Sound from construction activities occurring between 7:00 a.m. and 6:00 p.m. shall not exceed the following limits within 660 feet of any Protected Location:

Duration of Activity	Hourly Sound Level Limit
>6 hours	80 dBA
2 to 6 hours	85 dBA
>1 hour but <2 hours	95 dBA
1 hour or less	105 dBA

- (c) All equipment used in construction on the facility site must comply with applicable federal noise regulations and must include environmental noise control devices in proper working condition, as originally provided with the equipment by its manufacturer.



(3) Sound from Facility Maintenance Activities

- (a) Sound from routine, ongoing maintenance activities is considered part of the routine operation of the facility.
- (b) Sound from occasional, major, scheduled overhaul activities, including overhaul activities conducted concurrently with routine operation of the facility, are subject to the construction sound level limits contained in subsection 2 above.

B. Submissions

The applicant shall submit technical information submitted describing the Applicant's plan and intent to make adequate provision for the control of noise. The applicant's plan shall contain information such as the following, when appropriate:

- (a) Maps and descriptions of the land uses, local zoning and comprehensive plans for the area within which sounds from the facility will be above ambient sound levels.
- (b) A description of major sound sources, including tonal sound sources and sources of short duration repetitive sounds, associated with the construction, operation and maintenance of the proposed facility, including their locations within the proposed facility.
- (c) A description of the daytime and nighttime hourly sound levels and, for short duration repetitive sounds, the maximum sound levels expected to be produced by these sound sources at Protected Locations within two miles of the proposed facility.
- (d) A description of the Protected Locations within two miles of the proposed facility.
- (e) A description of proposed major sound control measures, including their locations and expected performance.
- (f) A comparison of the expected sound levels from the proposed facility with the sound level limits of this ordinance. Expected sound levels must be calculated with an acoustic model that conforms to International Standard ISO 9613-2, as revised, assuming simultaneous operation of all wind turbines and winter frozen-ground conditions. The acoustic modeling must assume each turbine emits the maximum sound power level guaranteed by the manufacturer for all wind speeds including the uncertainty level (K- factor) for sound measurement uncertainty and turbine production uncertainty (IEC Technical Specification 61400-14).
- (g) The turbine sound power level frequency spectrum in 1/3-octave bands.

C. Terms and Conditions

The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the Applicant has made adequate provision for the control of noise

from the facility and to reduce the adverse effects of noise on Protected Locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on extent or hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

The sound level limits established in this Ordinance do not preclude the Planning Board from requiring an Applicant to demonstrate that sound levels from a facility will not unreasonably disturb wildlife or adversely affect wildlife populations. In addition, the sound level limits shall not preclude the Planning Board, as a term or condition of approval, from requiring that lower sound level limits be met to ensure that the Applicant has made adequate provision for the protection of wildlife resources.

#### D. Measurement Procedures

- (1) Scope. These procedures specify measurement criteria and methodology for use, with applications, compliance testing and enforcement. They provide methods for measuring the ambient sound and the sound from routine operation of the facility, and define the information to be reported. The same methods shall be used for measuring the sound of construction and maintenance activities.

#### (2) Measurement Criteria

##### 2.1 Measurement Personnel

Measurements must be supervised by personnel who are well qualified by training and experience in measurement and evaluation of environmental sound, or by personnel trained to operate under a specific measurement plan approved by the Planning Board.

##### 2.2 Measurement Instrumentation

- (a) A sound level meter or alternative sound level measurement system used must meet all of the Type 1 or 2 performance requirements of American National Standard Specifications for Sound Level Meters, ANSI S1.4-1983.
- (b) An integrating sound level meter (or measurement system) must also meet the Type 1 or 2 performance requirements for integrating/averaging in the International Electrotechnical Commission Standard on Integrating-Averaging Sound Level Meters, IEC Publication 804 (1985).
- (c) A filter for determining the existence of tonal sounds must meet all the requirements of American National Standard Specification for Octave-Band and Fractional Octave-Band Analog and Digital Filters, ANSI S1.11-1986 for Order 3, Type 3-D performance.
- (d) An acoustical calibrator must be used of a type recommended by the manufacturer of the sound level meter and that meets the requirements of American National Standard Specification for Acoustical Calibrators, ANSI S1.40-1984.
- (e) A microphone windscreen must be used of a type recommended by the manufacturer of the sound level meter.

### 2.3 Calibration

- (a) The sound level meter must have been calibrated by a laboratory within 12 months of the measurement, and the microphone's response must be traceable to the National Bureau of Standards.
- (b) Field calibrations must be recorded before and after each measurement period and at shorter intervals if recommended by the manufacturer.

### 2.4 Measurement Location, Configuration and Environment

- (a) Except as noted in subsection (b) below, measurement locations must be at nearby Protected Locations that are most likely affected by the sound from routine operation of the facility.
- (b) For determining compliance with the 75 dBA property line hourly sound level limit, measurement locations must be selected at the property lines of the proposed facility or contiguous property owned by the Applicant, as applicable.
- (c) The microphone must be positioned at a height of approximately 4 to 5 feet above the ground, and oriented in accordance with the manufacturer's recommendations.
- (d) Measurement locations should be selected so that no vertical reflective surface exceeding the microphone height is located within 30 feet. When this is not possible, the measurement location may be closer than 30 feet to the reflective surface, but under no circumstances must it be closer than 6 feet.
- (e) When possible, measurement locations should be at least 50 feet from any regulated sound source on the facility.
- (f) Measurement periods must be avoided when the local wind speed exceeds 12 mph and/or precipitation would affect the measurement results.

2.5 Measurement Plans. Plans for measurement of pre-development ambient sound or post-facility sound may be discussed with the Codes Enforcement Officer.

### (3) Measurement of Ambient Sound

#### Post-Facility Ambient Sound

- (a) Measurements of the post-facility ambient one hour equivalent sound levels and, if short duration repetitive sounds are produced by the facility, the maximum sound levels made at nearby Protected Locations and during representative routine operation of the facility that are not greater than the applicable limits of subsection C clearly indicate compliance with those limits. If any of these conditions is not met, compliance with respect to the applicable limits must be determined by measuring the sound from routine operation of the facility in accordance with the procedures described in subsection 4.

### (4) Measurement of the Sound from Routine Operation of Facility.

#### 4.1 General

- (a) Measurements of the sound from routine operation of facilities are generally necessary for specific compliance testing purposes in the event that community complaints result from operation of the facility, for validation of an Applicant's calculated sound levels when requested by the Planning Board, for determination of existing hourly sound levels for an existing facility or for enforcement purposes.
- (b) Measurements must be obtained during representative weather conditions when the facility sound is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the facility and inversion periods (which most commonly occur at night).
- (c) Measurements of the facility sound must be made so as to exclude the contribution of sound from facility equipment that is exempt from this regulation.

#### 4.2 Measurement of the Sound Levels Resulting from Routine Operation of the Facility. (a)

When the ambient sound levels are greater than the sound level limits, additional measurements can be used to determine the hourly sound level that results from routine operation of the facility. These additional measurements may include diagnostic measurements such as measurements made close to the facility and extrapolated to the Protected Location, special checkmark measurement techniques that include the separate identification of audible sound sources, or the use of sound level meters with pause capabilities that allow the operator to exclude non-facility sounds.

- (b) For the purposes of computing the hourly sound level resulting from routine operation of the facility, sample diagnostic measurements may be made to obtain the one hour equivalent sound levels for each sound component.
- (c) Identification of tonal sounds produced by the routine operation of a facility for the purpose of adding the 5 dBA penalty in accordance with subsection A(l)(d) requires aural perception by the measurer, followed by use of one-third octave band spectrum analysis instrumentation. If one or more of the sounds of routine operation of the facility are found to be tonal sounds, the hourly sound level component for tonal sounds must be computed by adding 5 dBA to the one hour equivalent sound level for those sounds.
- (d) Identification of short duration repetitive sounds produced by routine operation of a facility requires careful observations. For the sound to be classified as short duration repetitive sound, the source(s) must be inherent to the process or operation of the facility and not the result of an unforeseeable occurrence. If one or more of the sounds of routine operation of the facility are found to be short duration repetitive sounds, the hourly sound level component for short duration repetitive sounds must be computed by adding 5 dBA to the one hour equivalent sound level for those sounds. If required, the maximum sound levels of short duration repetitive sounds must be measured using the fast response [LAF<sub>max</sub>]. The duration and the frequency of occurrence of the events must also be measured. In some cases, the sound exposure levels of

the events may be measured. The one hour equivalent sound level of a short duration repetitive sound may be determined from measurements of the maximum sound level during the events, the duration and frequency of occurrence of the events, and their sound exposure levels.

- (e) The daytime or nighttime hourly sound level resulting from routine operation of a facility is the energy sum of the hourly sound level components from the facility, including appropriate penalties, (see (c) and (d) above). If the energy sum does not exceed the appropriate daytime or nighttime sound level limit, then the facility is in compliance with that sound level limit at that Protected Location.

- (5) Reporting Sound Measurement Data. The sound measurement data report should include the following:

- (a) The dates, days of the week and hours of the day when measurements were made.
- (b) The wind direction and speed, temperature, humidity and sky condition.
- (c) Identification of all measurement equipment by make, model and serial number.
- (d) The most recent dates of laboratory calibration of sound level measuring equipment. (e)

The dates, times and results of all field calibrations during the measurements.

- (f) The applicable sound level limits, together with the appropriate hourly sound levels and the measurement data from which they were computed, including data relevant to either tonal or short duration repetitive sounds.
- (g) A sketch of the site, drawn to scale, orienting the facility, the measurement locations, topographic features and relevant distances, and containing sufficient information for another investigator to repeat the measurements under similar conditions.
- (h) A description of the sound from the facility and the existing environment by character and location.

## APPENDIX B

### Decommissioning plan

Pursuant to section 20.12, the Applicant shall provide a plan for decommissioning a Type 2 or Type 3 Wind Energy Facility. The decommissioning plan must include, but shall not be limited to the following:

1. A description of the trigger for implementing the decommissioning plan. There is a rebuttable presumption that decommissioning is required if no electricity is generated for a continuous period of twelve (12) months or 12 months in a 15-month period. The Applicant may rebut the presumption by providing evidence, such as a force majeure event that interrupts the generation of electricity, that although the project has not generated electricity for that period, the project has not been abandoned and should not be decommissioned.
2. A description of the work required to physically remove all Wind Turbines, associated foundations to a depth of 36 inches, buildings, cabling, electrical components, and any other Associated Facilities to the extent they are not otherwise in or proposed to be placed into productive use. All earth disturbed during decommissioning must be graded and re-seeded, unless the landowner of the affected land requests otherwise in writing.

[Note: At the time of decommissioning, the Applicant may provide evidence of plans for continued beneficial use of any or all of the components of the Wind Energy Facility. Any changes to the approved decommissioning plan must be subject to review and approval by the town.]

3. An estimate of the total cost of decommissioning less salvage value of the equipment and itemization of the estimated major expenses, including the projected costs of measures taken to minimize or prevent adverse effects on the environment during implementation of the decommissioning plan. The itemization of major costs may include, but is not limited to, the cost of the following activities: turbine removal, turbine foundation removal and permanent stabilization, building removal and permanent stabilization, transmission corridor removal and permanent stabilization and road infrastructure removal and permanent stabilization.
4. Demonstration in the form of a performance bond, surety bond, letter of credit, parental guarantee or other form of financial assurance as may be acceptable to the Planning Board that upon the end of the useful life or cessation of operation of the Wind Energy Facility the Applicant will have the necessary financial assurance in place for 100% of the total cost of decommissioning, less salvage value. The Applicant may propose securing the necessary financial assurance in phases, as long as the total required financial assurance is in place within 5 years of commencement of operation of the useful life of the Wind Energy Facility.



APPENDIX C BLASTING PLAN

The Applicant shall not undertake any blasting in conjunction with the construction, modification or expansion of a WEF unless the Applicant has notified the town in writing and submitted a blasting plan consistent with all applicable laws and rules and a blasting schedule. The plan and schedule shall be submitted for review and must be approved by the Planning Board before any blasting may take place.

Blasting may occur only in accordance with the approved blasting plan and schedule, and no blasting may occur without the Applicant having given at least 48 hours prior notice to all owners of record of property within a two mile radius, measured horizontally, from the blast site. The immediate site where blasting is to occur must be covered with blast mats or other protective devices to prevent debris from falling on adjacent properties or causing injury or property damage. Blasting must be restricted to daylight hours.

APPENDIX D

Application

Fees

Permit application fees must be established by the selectmen after adoption of this Ordinance as provided in Section 11 of this Ordinance. The selectmen shall hold a public hearing on the proposed fee schedule prior to adoption of the fee schedule. The selectmen shall review the fee schedule annually and may revise the fee schedule only after prior notice and public hearing on the revised fee schedule.