

2017

Town of Denmark Maine Ordinances

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TOWN OF DENMARK
CONSUMER FIREWORKS ORDINANCE

(Governing directive-Maine Revised Statute Title 8, Chapter 9-A, Sections 221-237)

Section 1. Purpose.

This ordinance governs the use of consumer fireworks to ensure the safety of the residents and property owners of the Town of Denmark Maine and the general public.

Section 2. Definitions.

Section 2.1-Consumer Fireworks

As used in this Ordinance, “Consumer Fireworks” means any firework that is authorized by the State of Maine for the sale to the general public.

Section 3. Use of Consumer Fireworks.

- a. No person shall use, display, fire or cause to be exploded Consumer Fireworks within the Town of Denmark on any day that is Class 3 to Class 5 National Fire Danger Rating System Day, as designated by the Maine Forest Service.
- b. No person shall use, display, fire or cause to be exploded Consumer Fireworks on Town Property.
- c. A person may use Consumer Fireworks only on that person’s property or the property of another person who has consented in writing the use of Consumer Fireworks on that property. This written permission shall contain the name and contact information for the property owner.
- d. The Town of Denmark assumes no liability for injuries or property damage that result from the use of Fireworks or Consumer Fireworks regardless of the status of a permit.
- e. No person shall use, display, fire or cause to be exploded Consumer Fireworks EXCEPT on the following dates and times:
 1. July 4th from 9:00 a.m. to July 5th at 12:30 a.m.
 2. December 31st 9:00 a.m. to January 1st at 12:30 a.m.
 3. January 1st 9:00 a.m. to 5:00 p.m.

Section 4. Fireworks Displays.

Fireworks displays are permitted by a person who has been duly issued a Fireworks Display permit by the State of Maine pursuant to 8M.R.S.A Section 227-A.

Section 5. Emergency Services Response.

If the use of Consumer Fireworks requires the response of emergency services for injury, fire, or damage to property, the owner of the property from which the fireworks were ignited shall be liable for full reimbursement cost of such a response. This shall apply even if the injured person(s) or property owner is the responsible party. Billing may include any cost incurred by neighboring municipalities' departments responding through mutual aid.

Section 6. Enforcement.

This ordinance shall be enforced by any authorized law enforcement provider or any duly authorized agent of the Town approved by the Selectboard to enforce this ordinance.

Section 7. Penalties.

Those persons found to be in violation of this ordinance shall first receive a written warning. All subsequent violations may warrant a fine of \$150.00.

Section 8. Severability.

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

Section 9. Effective Date.

This ordinance will become effective upon adoption by Town Meeting.

**TOWN OF DENMARK
DOG CONTROL ORDINANCE
Enacted March 11, 2000**

Section 1. Purpose

The purpose of this ordinance is to control dogs throughout the Town of Denmark in the interest of health, safety and general welfare of its residents.

Section 2. Definitions as used in this Ordinance unless the context otherwise Indicates:

- A. "DOG" shall mean both male and female whether neutered or not.
- B. "OWNER" shall mean any person, firm association or corporation owning, keeping or harboring a dog.
- C. "AT LARGE" shall mean off the premises of the owner and not being under the control of any person by means of personal presence and attention, or ability to manipulate and command the conduct of the dog.
- D. "DANGEROUS DOG" shall mean a dog which has bitten or chased a person who was not a trespasser on the owners premises at the time of the incident; or a dog which causes a reasonable person acting in a peaceable manner outside the owners premises, to be put in apprehension of eminent bodily harm; or a dog who has damaged the property of any person.

Section 3. License Required

All dogs kept, harbored or maintained by their respective owners in the Town of Denmark shall be licensed and tagged in accordance with the appropriate laws of the State of Maine, M.R.S.A. 3921.

Section 4. Disturbing the Peace

It shall be a violation of this ordinance for an owner of a dog to cause or permit such dog to bark, howl, or yelp continuously for twenty (20) minutes or intermittently for one (1) hour or more between the hours of 8:00 p.m. and 6:00 a.m. It shall be a violation of this ordinance for an owner to cause or permit a dog to be a dangerous dog.

Section 5. Running at Large

It shall be a violation of this ordinance for any dog, licensed or unlicensed, to run at large, except when used for hunting purposes.

Section 6. Confinement of Certain Dogs

Dogs of fierce, dangerous or vicious propensities or in heat shall be properly confined or tied by the owner or keeper in a reasonable manner to prevent harm to the public. If the owners or keepers of fierce, dangerous, vicious dogs, or dogs in heat are found in violation of this section, such

dogs shall be impounded and not released except on the approval of the Animal Control Officer, and only if all the provisions of the section entitled "Impoundment Fee" have been met.

Section 7. Impounding

Any Police Officer, Animal Control Officer or Constable within the Town of Denmark may seize, impound, or restrain any dog violating this ordinance or State law.

Section 8. Impoundment

When impounding any dog, the Animal Control Officer or Police Officer shall, at the time of such impoundment, list a number and description of violation(s), make a complete registry of the date of impoundment, breed, color, sex, and general condition of the dog as can be reasonably ascertained.

A copy of this registry shall be furnished to a shelter designated by the Town of Denmark with written instructions setting forth conditions under which the dog may be released. When a dog is impounded under the provisions of this Article, the Animal Control Officer, Police Officer, or person in control of the Animal Shelter shall make a reasonable effort to notify the owner or keeper if it can be ascertained.

The ultimate disposition of impounded dogs shall be according to Title 7, Sections 3912, 3913 and 3952 depending upon which category the dangerous dog or dog in heat, meets.

Section 9. Impoundment Fees

Owners may reclaim their dog by first licensing, if applicable, according to Town regulation and State law and by paying to the Town a fee of thirty dollars (\$30.00) for each offense. The owner will also be responsible for any additional costs incurred by the animal shelter prior to reclamation. Fees must be paid and a receipt of it presented to the shelter prior to the release of the dog. All fees to be deposited in the separate account as required by M.R.S.A. 7, Section 3945.

Section 10. Enforcement

There shall be appointed an Animal Control Officer(s) who shall have the prime responsibility for enforcing this ordinance. Police Officers and Oxford County Sheriffs may also enforce this ordinance.

Section 11. Penalties

Any owner found in violation of any of the provisions of this ordinance shall be guilty of a civil violation and upon conviction thereof shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) to be recovered by a complaint before the Maine District

Court, District Nine of Northern Cumberland County. The owner shall also be responsible for the Town of Denmark's attorney's fees and costs. All fines collected shall be recovered to the use of the Town of Denmark and deposited in a separate account as required by M.R.S.A., Section 3945 (Use and License Fees Retained by Municipalities).

Section 12. Severability Clause

If any part of this ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this ordinance.

Section 13. Conflict with Other Ordinances

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation or provision of law.

Section 14. Amendments

This ordinance may be amended by a majority vote of any legal Town Meeting when such amendment is published in the warrant calling for the meeting.

Section 15. Effective Date

This ordinance shall be in full force and effect when enacted.

TOWN OF DENMARK

FIREWORKS SALE, MANUFACTURE & STORAGE ORDINANCE

1. TITLE AND AUTHORITY

This ordinance shall be known as the "Town of Denmark Fireworks Sale, Manufacture & Storage Ordinance." It is adopted pursuant to the enabling provisions of the Maine Constitution, the Provisions of 30-A M.R.S.A. Section 3001, and the provisions of 8 M.R.S.A. Section 223-A

2. DEFINITIONS IN ACCORDANCE WITH 8 M.R.S.A. SECTION 221-A, SUBSECTION 1-A

Consumer Fireworks: "Consumer Fireworks" has the same meaning as in 27 Code of Federal Regulations, Section 555.11 or subsequent provision, but includes only products that are tested and certified by a third-party testing laboratory as conforming with United States Consumer Product Safety Commission standards, in accordance with 15 United States Code, Chapter 47.

"Consumer Fireworks" does not include the following products:

- A. Missiles type rockets, as defined by the State Fire Marshal by rule;
- B. Helicopters and aerial spinners, as defined by the State Fire Marshal by rule; and
- C. Sky rockets and bottle rockets. For purposes of this paragraph, "sky rockets and bottle rockets" means cylindrical tubes containing not more than 20 grams of chemical composition, as defined by the State Fire Marshal by rule, with a wooden stick attached for guidance and stability that rise into the air upon ignition and that may produce a burst of color or sound at or near the height of flight.

Fireworks: "Fireworks" means any:

- A. Combustible or explosive composition or substance
- B. Combination of explosive compositions or substances;
- C. Other article that was prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, including blank cartridges or toy cannons in which explosives are used, the type of balloon that requires fire underneath to propel it, firecrackers, torpedoes, skyrockets, Roman candles, bombs, rockets, wheels, colored fires, fountains, mines, serpents and other Fireworks of like construction;
- D. Fireworks containing any explosive or flammable compound; or
- E. Tablets or other device containing any explosive substance or flammable compounds.

The term "Fireworks" does not include Consumer Fireworks or toy pistols, toy canes, toy guns or other devices in which paper caps or plastic caps containing 25/100 grains or less of explosive compound are used if they are constructed so that the hand cannot come in contact with the cap when in place for the explosion, toy pistol paper caps or plastic caps that contain less than 20/100 grains of explosive mixture,

sparklers that do not contain magnesium chlorates or perchlorate or signal, antique or replica cannons if no projectile is fired.

3. SALES, MANUFACTURER & STORAGE

The sale, manufacture & storage of Consumer Fireworks & Fireworks is prohibited.

4. CIVIL PENALTIES

Whoever violates any of the provisions of the foregoing Sections shall be subject to a civil penalty of not less than five hundred dollars (\$500) per occurrence and not more than twenty-five hundred dollars (\$2,500) per occurrence, plus attorneys fees and costs.

MUNICIPAL OFFICE
PO Box 109
Denmark, ME 04022
TEL: (207) 452-2163
FAX: (207) 452-2333

TOWN OF DENMARK, MAINE

OFFICE HOURS
9:00-12:30
1:00-4:30 Daily
Closed Wednesdays
Saturday 9:00-12:00

Town Manager: (207) 452-8850
C.E.O. / Plumbing Inspector: (207) 452-2207
Public Works Director: (207) 452-2310



Office of the Board of Selectmen

Community Forest Ordinance Adopted at Town Meeting June 5, 2015

1. **PURPOSE & DEFINITION.** This Ordinance is enacted for the purpose of regulating and governing the use and management of those lands known as the Perley Mills Community Forest, Perley Mills Lot, Railroad Lot and Ingalls lot and known collectively as the Denmark Perley Mills Community Forest.

Furthermore, it is the purpose of this Ordinance to create a Community Forest Commission whose purpose is to manage the Denmark Perley Mills Community Forest such that it is used in accordance with applicable deeded covenants and restrictions.

The Perley Mills Community Forest is owned and managed by a municipal entity or other group on behalf of the community;

The community forest acquisition and management structure will ensure community participation in and responsibility for management decisions;

The community has secure access to the value and benefits of the forest, both monetary and nonmonetary, that can support and reinforce community priorities and economic development objectives;

The conservation values of the forestland are permanently protected through a conservation easement and sustainable forest management practices.

2. **DELEGATION OF AUTHORITY.** Authority over the governance and management of Denmark Perley Mills Community Forest (hereinafter "Perley Mills Community Forest"), shall be exercised, in accord with the provisions of this Ordinance, by the Perley Mills Community Forest Commission (hereinafter "Commission"), created under Section 4 of this Ordinance and pursuant to 30-A M.R.S.A Sec. 3201.
3. **PERLEY MILLS COMMUNITY FOREST COMMISSION.** The Commission shall be composed of five persons, one of whom shall be appointed from the Planning Board, one of whom shall be appointed from the Denmark Conservation Commission, one of whom shall be appointed from the Snowmobile Club, one appointed by the select board

and one of whom shall be appointed by the other four members of the commission. The members shall serve 3-year terms, however the initial terms shall be staggered. The members shall serve at the pleasure of the Selectboard and may only be removed for cause by the Selectboard. No one serving on any other board shall be excluded from appointment to this board.

- a. The Commission shall also have 3 Ex-Officio non-voting members from the following: 1 from the Town of Bridgton, 1 from the Town of Sebago and 1 From the Loon Echo Land Trust

4. DUTIES AND AUTHORITY OF PERLEY MILLS COMMUNITY FOREST COMMISSION. The Commission shall have the following duties and authority:

- a. To direct and manage all activities upon, and functions pertaining to, the Perley Mills Community Forest, in accordance with the management plan adopted under Section 6, with any applicable conservation easement, and with any regulations. This responsibility includes the coordination of activities and functions assigned to activity managers under Section 7, in a manner consistent with each activity manager's cooperative agreement with the Commission.
- b. To select and engage any licensed professionals required to work on behalf of the commission, these professionals shall assist the Commission in preparation of draft management plans or amendments and, subject to the Commission's supervision, may be responsible for implementing aspects of the management of the Perley Mills Community Forest in accordance with the adopted management plan.
- c. To prepare draft management plans or amendments thereto, as set forth in Section 6, and to present such drafts at public hearings held by the Commission.
- d. To prepare drafts of the forest management budgets under Section 10.
- e. To approve all expenditures from the Forest Management Revolving Fund, in conformity with Commission appropriations as set forth in Section 12.
- f. To make all such contracts as are consistent with the fulfillment of the adopted management plan and any adopted regulations.

5. MANAGEMENT PLAN.

- a. Periodically, as instructed by the Selectmen or as required by an applicable conservation easement, the Commission, with the assistance of the forester, activity manager appointed under Section 7, and such other persons as the Commission deems appropriate, shall prepare a draft Perley Mills Community Forest management plan and present it to the Selectmen for their review and approval.
- b. Amendments to the existing management plan may be proposed by the Commission

or activity manager, at any time.

- c. Prior to taking action on any draft management plan or proposed amendment thereto, the Commission shall hold a public hearing as set forth in Section 13.
- d. At or following the public hearing, the Selectboard shall approve or disapprove the draft management plan or proposed amendment or approve it with alterations, provided however that no substantive alteration shall be made unless first discussed at a noticed public hearing.
- e. Adopted management plans or amendments thereto shall be consistent with the purpose of this Ordinance and with any applicable conservation easement(s), and shall be forwarded by the Commission to the easement holder for such approval as may be required by conservation easement(s).
- f. Uses and recreational activities shall be allowed and consistent with that found in the easement as approved by the land owner which includes:
 - i. **Anywhere on the Protected Property.** Anywhere on the Protected Property, except within the Sand and Gravel Pit Area, Owner shall take no action to permanently prohibit, discourage or charge a fee for use by the general public for daytime, outdoor recreation by the general public for walking, hiking, skiing, snowshoeing, nature observation, non-motorized boating, swimming, hunting, fishing and trapping.
 - ii. **Narrow Gauge Trail and Other Designated Trails.** On the Narrow Gauge Trail and other trails designated in the Baseline Documentation or as permitted in Paragraph 4.B., Owner shall take no action to permanently prohibit, discourage or charge a fee for daytime, outdoor recreation by the general public for horseback riding, bicycling, domesticated pet walking, dog sledding, snowmobiling, and use with motorized wheeled recreational vehicles.
 - iii. **Gravel Pit Operation Permitted.** The town is authorized to operate or contract/lease out, operation of the existing gravel pit onsite, under the terms and conditions in the easement and any applicable permit as required by law.
 - iv. **Accessibility.** Notwithstanding the provisions contained above, and in order to comply with prevailing state and federal laws regarding access, service animals and motorized wheelchairs shall be permitted throughout the Protected Property. The use of other power-driven motorized devices for persons with disabilities shall be permitted, however the Owner may determine that certain types of motorized devices are to be limited or prohibited, in accordance with such prevailing laws.

- v. **Other Recreational Uses.** The Owner shall have the right to allow, limit or prohibit any of the following public recreational uses: night time use, camping, fires, picnicking, parking, use of motor boats, and use of non-recreational motor vehicles. Owner shall take measures to limit, prohibit or correct any of the foregoing uses that result in rutting, erosion or other damage to natural resources. Any posting or other controls or limits on such uses must be specific to the prohibited use.
- vi. **Additional Rules.** Owner and Holder may jointly establish additional recreational rules and regulations that are not inconsistent with the terms of this Easement. Additional rules concerning recreational activities shall be set forth in a management plan or ordinance.
- vii. **Immunity.** Owner and Holder claim all of the rights and immunities against liability for injury to the public, or other users of the Protected Property, to the fullest extent of the law under Title 14 M.R.S. Section 159-A, et seq. as amended and successor provision thereof (The Maine Recreational Use Statute), under Title 14 M.R.S. Section 8101,
- g. An authorized person (Forest Warden, or other such person “deputized” by the town) may be patrolling the Perly Mills Community Forest at any time. These persons’ have the authority as granted by the town, to issue citations for misuse of the property. Misuses of the property are to be reported to the commission, the Selectboard, the Activities manager or other appropriate personnel. Fines for misuses of the property shall be handed down by the Selectboard, and paid to the Town of Denmark. These amounts will be no less than \$100 and no more than \$500. Repeated violations may lead to a permanent ban from the property. Appeals to such a fine or decision, may be made as described in section 11. (Does there need to be some sort of a hearing held before fines are levied? Public/private?)

6. ACTIVITY MANAGER(S).

The Commission may appoint one or more individuals, companies, organizations or institutions as Activity Manager(s) and shall be considered a volunteer position, to be responsible for one or more of the non-commercial multiple uses of the Perley Mills Community Forest, as identified and authorized by the adopted management plan, including but not limited to any form of outdoor recreation, education, wildlife management, woodlot management or watershed protection. The Commission shall provide a list of the tasks which the activity manager shall undertake. Such tasks may include mapped land areas or corridors under the activity manager's responsibility, the facilities, if any, to be developed, and the expected timing of such development.

- a. All actions taken by an activity manager shall be consistent with the adopted management plan, and any applicable conservation easement, and shall be undertaken in such a manner as to minimize any negative impacts upon the other

purposes and functions of the Perley Mills Community Forest.

- b. Appointed activity managers may make recommendations and otherwise assist in the preparation of the management plan or amendments thereto.
- 7. LISTING OF ACTIONS REQUIRING PRIOR APPROVAL.** As part of a management plan or amendment thereto, the Commission may designate a list of potential uses or management actions which will require prior approval from the Commission. Whenever the Commission or an activity manager proposes to initiate one of the listed actions, it shall give one month's prior public notice, describing the proposed action, its timing, the area of land to be affected, and any temporary measures needed to facilitate it, including measures needed to protect or accommodate the public while the action is underway. The Commission shall develop a list of activities which will require a written approval prior to that use commencing in the field. The easement as granted to the community has a list of uses which require written approval and may expand this list if warranted. The Selectboard and the Commission shall hold a public hearing in accordance with Section 12, and the Selectboard shall, following the hearing, approve, approve with conditions, or disapprove the proposed action.

8. FOREST MANAGEMENT FUND.

- a. All income or proceeds from the management of the Perley Mills Community Forest shall be placed in a separate Forest Management Fund. The amounts in the Fund shall be held by the Town Treasurer, invested and accounted for separately, and not commingled with other Town funds, and shall not be considered part of the Town's general fund balance, but shall be allowed to accumulate from year to year until expended or withdrawn in accordance with this Ordinance.
- b. The Town Meeting may, from time to time, vote to place additional amounts from any source into the Fund.
- c. The Board of Selectmen hereby authorize the Forest Commission the ability to accept grants or gifts of money to be placed into the Fund, provided, however, that such grants or gifts, and all interest or other investment income derived there from, shall be accounted for separately, and such amounts shall not be subject to withdrawals under Section 10. Nothing in this Ordinance shall be construed to affect in any way the authority of the Town or its officers to accept gifts or trusts for forest-related purposes under the provisions of other statutes.
- d. Appropriations from the Fund shall be made by the Commission in the manner set forth in Section 10, without further approval of the Town Meeting. Nothing in this Ordinance shall be construed as authorizing the Commission to make appropriations from the Town's general fund.

9. FOREST MANAGEMENT BUDGET APPROVAL AND EXPENDITURES.

- a. The Commission, with the assistance of the forester and appointed activity managers, shall prepare a draft annual forest management budget, and shall present that draft to the Selectboard for approval on or before March 1 in each calendar year. The draft budget shall include:
 - i. The balances in the forest management fund at the beginning and end of the previous year, and all sources of income or revenue received during that year, together with any applicable conditions or restrictions attached thereto;
 - ii. All purposes and amounts of appropriations approved by the Commission for the previous year, including any supplemental appropriations, shown together with the actual expenditures made pursuant to those appropriations for each purpose during that year;
 - iii. Any withdrawals made under Section 10 during the previous year;
 - iv. Estimated revenues to be realized over the coming year, including probable sources and conditions, if any; and the purposes and amounts recommended by the Commission to be appropriated for the use and management of the Perley Mills Community Forest for the coming year.
- b. The Commission shall forward its approved budget, including all elements set forth in paragraph A of this Section, to the Selectmen, together with such other information it deems appropriate, as an annual report. The report shall be included in the Town Report, but shall not require any action by the Town Meeting.
- c. Each annual Perley Mills Community Forest management budget shall include a payment in lieu of taxes, to be paid out of the Forest Management Fund into the general fund of the Town. The amount of the payment shall be based on an estimate of the amount of taxes which would be paid with respect to Perley Mills Community Forest lands if such lands were in private ownership. However, the amount of the payment in lieu of taxes may be reduced if the balance in the Forest Management Fund – exclusive of grants or gifts accounted for separately under Section 8(C) is, in the judgment of the Commission, otherwise inadequate to meet operating expenses, or to fulfill a mandatory duty imposed upon the Town by an applicable conservation easement.
- d. Each annual Perley Mills Community Forest management budget shall include a payment amount for property taxes paid directly to the Town of Bridgton as applicable.
- e. The Commission shall have approval authority over all expenditures from the Forest Management Fund and the Town Treasurer shall pay out moneys from

the Fund upon orders of the Commission. Such expenditures shall be in conformity with the budget approved by the Selectboard. The Commission shall keep public records of all such expenditures. The Commission shall have the authority, during the year, to transfer an unexpended balance remaining in one appropriation to another appropriation, so long as every expenditure is properly classified and entered, and so long as any expenditures exceeding the original appropriation are offset by unexpended balances remaining in other appropriations; provided, however, that the Commission may not transfer any amount appropriated to an activity manager, and provided further that the Commission shall have the authority to designate particular amounts or purposes of appropriations as non-transferable.

- f. During the year the Commission, on its own motion, or upon request of any activity manager(s), shall have the authority to make supplemental appropriations from the Forest Management Fund, for purposes pertaining to Perley Mills Community Forest use and management. Prior to approving any supplemental appropriation, the Commission shall hold a public hearing in accordance with Section 13.
 - g. All capital expenditures proposed by the commission for the upcoming year shall be placed in the town's capital budget proposal and paid for by the town upon approval at town meeting.
10. **WITHDRAWALS.** The Town by majority vote under an article properly placed in the warrant of any Town Meeting, may vote to withdraw an amount from the Forest Management Fund, and appropriate it to a purpose unrelated to forest management, provided, however, that no such vote shall be valid to the extent that it withdraws any amount attributable to grants or gifts made to the fund, or to the extent that it draws the fund down to a level below that of the total expenditures made from the fund during the previous three years, including payments in lieu of taxes made during those years, less the income from operations during the previous three years. A withdrawal under this Section shall only be made pursuant to a separate warrant article, and not as part of the Town's operating budget. When such an article appears in the warrant, the Commission shall be given an opportunity to present to the Town its recommendation with respect to the article, prior to any vote.
11. **RESOLUTION OF DISPUTES AND OVERRIDING.** On its own motion, upon request by the Commission or an Activity Manager, or upon petition of 10 percent of the registered voters in town, calculated from the last gubernatorial election, the Selectmen shall review any decision made concerning the Perley Mills Community Forest by the Commission, any activity manager, or any other agent of the Town. The review shall include a public hearing with notice as set forth in Section 12, provided, however, that the Commission may, at any public meeting, make such orders as will preserve the status quo, pending such review. Following such review the Selectmen may in its discretion, by a majority vote, vote to override or modify the decision under review. The Selectmen shall state its reasons for any modification or override.

12. **PUBLIC HEARINGS.** At least 10 calendar days before any public hearing required by this Ordinance, notice of the hearing shall be published in a paper of general circulation in the Town of Denmark, shall be posted in at least one public place within the Town, and shall be mailed by first class mail to the Selectmen, Commission and to all activity managers appointed under Section 6. Notice shall include the time, date and place of the hearing, a general description of the subject matter under consideration, and the place where any relevant materials are available for examination. The Reviewing Body shall provide an opportunity for testimony, orally or in writing, by the Selectmen, Commission, activity managers, and members of the public. The Reviewing Body may in its discretion invite persons with special knowledge or information to assist it in making decisions.
13. **NOTICE TO PLANNING BOARD.** All notifications, including submission of draft management plans and proposals for amendments under Section 5, notice of intent to initiate a listed action under Section 7 presentation of draft budgets or requests for supplemental appropriations under Section 8, and requests for review under Section 11, shall be made by first class mail, sent to The Town of Denmark Town Hall.
14. **SEVERABILITY AND LIMITATION.** The invalidity of any provision of this Ordinance shall not affect the validity of any other provision of this Ordinance. Nothing in this Ordinance shall be deemed to affect any property held by the Town of Denmark which has not been designated as part of the Perley Mills Community Forest by vote of the Town.

Ordinance Prohibiting Retail Marijuana Establishments and Retail Marijuana Social Clubs in the Municipality of Denmark, Maine

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, retail marijuana products manufacturing facilities, and retail marijuana testing facilities, and retail marijuana social clubs, are expressly prohibited in this municipality.

No person or organization shall develop or operate a business that engages in retail or wholesale sales of a retail marijuana product, as defined by 7 M.R.S.A. § 2442.

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 30-A M.R.S.A. § 4452.

**SUBDIVISION
REGULATIONS
TOWN OF DENMARK**

**Adopted by
The Denmark Planning Board
And amended
December 10, 2004**

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ARTICLE I: PURPOSES

The purposes of these regulations are:

- 1.1 To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2 To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., Section 4404;
- 1.3 To assure new development in the Town of Denmark meets the goals and conforms to the policies of the Comprehensive Plan and the Denmark Zoning Ordinances;
- 1.4 To assure the comfort, convenience, safety, health and welfare of the people of the Town of Denmark;
- 1.5 To protect the environment and conserve the natural and cultural resources identified in the Denmark Comprehensive Plan as important to the community;
- 1.6 To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- 1.7 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality;
and;
- 1.8 To promote the development of an economically sound and stable community.

ARTICLE II: AUTHORITY AND ADMINISTRATION

2.1 Authority.

- A. These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., Section 4403.
- B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Denmark, Maine."

2.2 Administration.

- A. The Planning Board of the Town of Denmark, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Denmark.

2.3 Amendments.

- A. These regulations may be amended by the Planning Board of the Town of Denmark. Note: the Town Meeting could supercede the Planning Board's adopted regulation, should it wish to. See Title 30-A MRSA 4403, part 2.
- B. A public hearing shall be held before the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE III: DEFINITIONS

(Definitions in italics are the DENMARK version)

In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, any word or term defined in the Denmark Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

Affordable Housing: Housing units which will meet the sales price and/or rental targets established by the comprehensive plan for housing affordability.

Applicant: The person applying for subdivision approval under these regulations.

Average Daily Traffic (ADT):

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 as approved by the Planning Board.

Campground: Any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.

Capital Improvements Program (CIP): The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

Capital Investment Plan: The portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

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

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote by the Board to waive the submission of 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 a portion of the improvements which represents 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 sub-divider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily 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.

Comprehensive Plan: A document or interrelated documents adopted by the Legislative body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies as defined in Title 30 M.R.S.A.

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

Contiguous Lot: For the purposes of these regulations, a lot shall be considered to be contiguous with another lot if the lots adjoin at any point or line, or are separated at any point by a body of water less than forty feet wide.

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

Developed Area: Any area on which a site improvement or change is made, to include buildings, landscaping, parking areas, etc.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan, there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the

drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

Driveway: A vehicular accessway 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, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more; or any system designed to be capable of treating wastewater with higher BOD and total suspended solids concentrations than domestic wastewater.

Essential Services: The construction, alteration, or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not necessarily include buildings which are necessary for the furnishing of such services.

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 location. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (i.e. 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 changes in vegetation, and which distinguishes between predominantly aquatic and predominantly 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.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1991 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from level of Service A, and free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

Living Unit: This term applies to residential dwelling units, and shall include single, duplex and multi-family dwellings, apartments and condominiums. Each individual unit, which functions as a separate dwelling quarters, shall be a living unit.

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

Municipal Engineer: Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

Net Residential Acreage: The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Section 12.10.C.3.

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

New Structure or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

Normal High Water Elevation Line: Along lakes, ponds, and tidal waters, the elevation at which continuous, contiguous vegetation changes from predominantly aquatic to predominantly terrestrial, and along rivers and streams, the highest elevation on the bank of a channel at which the water has left a permanent mark.

Preliminary Subdivision 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 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for re-recording at the Registry of Deeds and which need show only 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.

Reserved Affordable Housing: Affordable housing which is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 80% or less of the area median household income.

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 these regulations 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 an application for subdivision approval.

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

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for a distribution of transformed energy (to the extent they cannot be used jointly with a conventional energy system). Passive solar energy systems are included in this definition but not to the extent that they fulfill other functions such as structural and recreational.

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.

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: list streets designated as arterials in the comprehensive plan or other planning document.

Collector Street: A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Cul-de-sac: A street with only one outlet and having the other end for the reversal of traffic movement.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Residential Street: a street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

Private Right of-Way: A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

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

Subdivision, Major: Any subdivision containing more than four (4) lots, or any subdivision requiring any new public street extension, or the extension of municipal facilities.

Subdivision, Minor: A subdivision containing not more than four (4) lots.

Tract or Parcel of Land: As defined in Title 30-A MRSA Section 4401, as amended.

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 IV: ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than ten working days in advance of the meeting, available to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda by contacting the Planning Board secretary at least ten working days in advance of a regularly scheduled meeting. Applicants who attend a meeting but who are not on the board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the board shall take no action on any application not appearing on the Board's written agenda.

ARTICLE V: PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION

5.1 Purpose

The purpose of the preapplication 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, soils identification, and engineering by the applicant.

5.2 Procedure

A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.

B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.

C. The date of the on-site inspection is selected.

5.3 Submission.

The Preapplication Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.

B. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.

5.4 Contour Interval and On-Site Inspection.

Within thirty days of the preapplication meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall not conduct on-site inspections when there is more than one foot of snow on the ground.

5.5 Rights not Vested.

The preapplication meeting, the submittal or review of the 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 2 M.R.S.A., Section 302.

5.6 Establishment of File.

Following the preapplication meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file.

ARTICLE VI: MINOR SUBDIVISION

6.1 General.

The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A., Section 4404, or the standards from Article 11 of these regulations, that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision.

6.2 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a Final Plan of a Minor Subdivision at least 10 days prior to a scheduled meeting of the board. Applications shall be submitted by mail to the to the Board in care of the municipal office and to the Board's agent at the Southern Maine Regional Planning Commission (21 Bradeen Street, Suite 304, Springvale, ME 04083, 324-2952) or delivered by hand to the municipal office. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for final plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee of \$50 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$50 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. An additional fee shall be required to cover the costs of advertising for the public hearing.
- C. When the effects of a proposed new sub-division or changes to an existing sub-division are uncertain, the Planning Board, after notification to the applicant, shall employ such independent consultant as necessary, at the expense of the applicant, to ensure compliance with all requirements of these regulations. The estimated costs of such studies shall be left with the Town Clerk prior to their undertaking. All costs incurred by the Planning Board in review of an application shall be borne by the applicant and a permit shall not be issued until these costs are paid. Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing.
- D. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the board's receipt of the plan until the next meeting which the applicant attends.
- E. At the meeting at which an application for final plan approval of a minor subdivision is initially presented, the Board shall:
 1. Issue a dated receipt to the applicant.
 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- F. Within thirty-five days of the receipt of the final plan 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.
- G. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination.

- H. The Board shall hold a public hearing within thirty-five days of determining that 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 the municipality 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 and abutters.
- I. Within thirty-five days of a public hearing, or within another 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 of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 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 Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.

6.3 Submissions.

The final plan for a Minor Subdivision application shall consist of the following items.

- A. Application Form.
- 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. Existing subdivisions in the proximity of the proposed subdivision.
 - 2. Locations and names of existing and proposed streets.
 - 3. Boundaries and designations of zoning districts.
 - 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Final Plan. The Subdivision plan for a Minor Subdivision shall consist of two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal 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. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. 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 11 by 17 inches, and all accompanying information shall be available to each Board member at the Town Office.
- D. Application Requirements. The application for approval of a Minor 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, or identifying title, and the name of the municipality in which it is located, 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 distance, made and certified by a professional 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, right-of-way, or other encumbrances currently affecting the property.
 - 5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision including proposed rights-of-way, or other encumbrances.

6. Sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Water is to be supplied by private wells. Evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
10. A high intensity soil survey by a Certified Professional in Erosion Sediment Control or certified geologist, soil scientist, or professional engineer. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. 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 existing vegetation.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries effecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
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. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be submitted in a digital format compatible with the assessor's records.
17. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
18. The location of any open space to be preserved and a description of proposed improvements and its management, homeowners' association bylaws, or condominium declaration.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, Map No. _____; or
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or proposed use

- of shared or common subsurface waste water disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.
22. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
 23. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be effected, and recommended improvements to maintain the desired level of service on the affected streets.
 24. A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm waste management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways I less than 5% of the area of the subdivision.
 25. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Oxford County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
 26. 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 and Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Beginning with Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
 27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan:
 - a. For subdivisions which qualify for the simplified review procedure as described in Section 11.17.A.2, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.
 - b. For subdivisions which do not qualify for the simplified review procedure as described in Section 11.17.A.2, the following shall be submitted.
 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision.
 2. A long-term maintenance plan for all phosphorus control measures.
 3. The contour lines shown on the plan shall be at an interval of no less than five feet.
 4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
 28. The location and method of disposal for land clearing and construction debris.

ARTICLE VII: PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan to the Board and to the Board's agent at the Southern Maine Regional Planning Commission (21 Bradeen St., Suite 304, Springvale, ME 04083, 324-2952). Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$50 per lot or dwelling unit, payable by check to the Town of Denmark. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that an additional \$50 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. An additional fee shall be required to cover the costs of advertising.
- C. When the effects of a proposed new sub-division or changes to an existing sub-division are uncertain, the Planning Board, after notification to the applicant, shall employ such independent consultant as necessary, at the expense of the applicant, to ensure compliance with all requirements of these regulations. The estimated costs of such studies shall be left with the Town Clerk prior to their undertaking. All costs incurred by the Planning Board in review of an application shall be borne by the applicant and a permit shall not be issued until these costs are paid. Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing.
- D. The applicant, or the applicant's representative, shall attend the meeting of the Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's receipt of the plan until the next meeting that the applicant attends.
- E. Within three days of the meeting at which an application for preliminary plan approval of a major subdivision is initially presented, the Board shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 - 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.

- F. Within thirty-five days of the receipt of the preliminary plan 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.
- G. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of its determination.
- H. The Board shall hold a public hearing within thirty-five days of determining that 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 the municipality 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.
- I. Within thirty-five days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- J. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The amount of all performance guarantees and cost estimates which it will require as prerequisite to the approval of the Final Plan.
- K. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

7.2 Submissions: The preliminary plan application shall consist of the following items.

- A. Application Form.
- B. Location Map. The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Location Map shall show:
 - 1. all the area within two thousand (2,000) feet of any property line of the proposed subdivision, or;
 - 2. any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the Location Map is at least five hundred (500) feet from any boundary of the proposed subdivision. Within such area the Location Map shall show:
 - 1. All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely those directly abutting or directly across any street adjoining the proposed subdivision.
 - 2. Locations, widths and names of existing, filed or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph 7.2.A.1, above.
 - 3. The boundaries and designations of zoning districts.
 - 4. An outline of the proposed subdivision together with its probable access and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.
- C. Preliminary Plan. The Preliminary Plan shall be submitted in ten (10) copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to an inch. Plans for subdivision 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 details can be easily read. In addition one copy of the plan(s) reduced to a size of 11 by 17 inches, and all accompanying information shall be provided to each Board member no less than seven days prior to the meeting.
- D. Application Requirements. The application for preliminary plan approval 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., §4404 are met.
 - 1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Map and Lot numbers.
 - 2. Verification of right, title, or interest in the property. Name and address of record owner, subdivider and designer of preliminary Plan, and submission date.
 - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
 - 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 deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - 6. An indication of the type of sewage disposal to be used in the subdivision. When connection to the sewer district is not possible, site evaluations conforming with the State Plumbing Code shall be submitted for each lot in the subdivision. All site evaluations performed, including those test pits not meeting the minimum standards of the State Plumbing Code, shall be submitted for review. Test pits shall be of sufficient number and so located at representative points within the lot to assure that a proposed disposal area can be entirely located on soils and slopes which meet the criteria of the State Plumbing Code. All test pits shall be dug and shall be accurately shown on the plan.

When the depth of original soil material to ledge, seasonal high water table, or an impervious layer is twenty-four inches or less, additional area with suitable soil conditions shall be identified and reserved for possible expansion or replacement of disposal area.

7. An indication of the type of water supply system(s) to be used in the subdivision. If an on-site water supply is proposed, the developer must submit materials which reasonably satisfy the Planning Board that each lot has the capability to support the well, the septic system, and a principal structure and will meet the minimum specifications of these standards and all other pertinent State and local codes.
8. The date the plan was prepared, north point, and graphic map scale.
9. A hydrogeologic study prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985, Map No. ____; or
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or the proposed use of shared or common subsurface waste water disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.
10. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
11. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
12. The location of all natural features or site elements to be preserved.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
17. Location, names and present widths of existing and proposed streets, highways, easements, buildings, alleys, parks and other public open spaces.
18. The width and location of any streets or other public ways or places shown upon the Official map and the Comprehensive Plan, if any, within the area to be subdivided, and the width and location, and grades and street profiles of all streets or other public ways proposed by the subdivider.
19. The proposed lot lines with approximate dimensions and lot areas.
20. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
21. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
22. 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 municipality's Flood Insurance Rate Map, shall be delineated on the plan.
23. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.

24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
25. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be effected, and recommended improvements to maintain the desired level of service on the effected streets.
26. 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, Beginning with Habitat Project, or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
27. If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.
28. The location of solar collectors, if proposed.

ARTICLE VIII: FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a Final Plan at least 10 days prior to a scheduled meeting of the board. Applications shall be submitted by mail to the Board in care of the municipal office and to the Board's agent at the Southern Maine Regional Planning Commission (255 Main Street, P.O. Box Q, Sanford, ME 04073, 207-324-2952) or delivered by hand to the municipal office. Failure to submit the application within six months shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for final plan approval for a Major Subdivision shall be accompanied by a non-refundable application fee of \$50 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$50 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$50 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. An additional fee shall be required to cover the costs of advertising for the public hearing.
- C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act.
 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.
- E. Within thirty days of the receipt of the final plan 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.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant. The Board shall determine whether to hold a public hearing on the final plan application.
- G. The Board shall hold a public hearing on the application for Final Plan approval within thirty-five days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing and notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

- H. The Board shall notify the road commissioner, school superintendent, Oxford County Sheriff, and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- I. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 13.
- J. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., Section 4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions

The final plan shall consist of four copies of 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 line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and 2 copies of the plan shall be submitted. In addition, one copy of the final plan, reduced to a size of 11 by 17 inches, and all accompanying information shall be made available to each Board member no less than seven days prior to the meeting.

The Final Plan shall include or be accompanied by the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- B. The number of acres within the proposed subdivisions, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- C. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
 - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 - 2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- E. The date the plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.

- H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference pints previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- K. Street plans, meeting the requirements of Section 12.2.B.2.
- L. A storm water management plan, prepared by a registered professional engineer in accordance with the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- M. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the are of the subdivision.
- N. The width and location of any streets or public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
- O. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which op[en spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- P. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- Q. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control under Section 11.17.A.2, the following shall be submitted or indicated on the plan.
 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
 2. A long-term maintenance plan for all phosphorus control measures.

3. The contour lines shown on the plan shall be at an interval of no less than five feet.
 3. Ares with sustained slopes greater than 25% covering more than one acre shall be delineated.
- R. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has financial commitments or resources to cover these costs.
- S. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:
 - . Schools, including busing
 - . Street maintenance and snow removal
 - . Police and fire protection
 - . Solid waste disposal
 - . Recreation facilities
 - . Storm water drainage
 - . Waste water treatment
 - . Water supply
- T. The location and method of disposal for land clearing and construction debris.

8.3 Final Approval and Filing

- A. No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-1 M.R.S.A., Section 4404, and these regulations 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 facts 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, one copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any sub-division not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board may require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board may require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., Section 4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. 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 Registry of Deeds to that effect.

ARTICLE IX – REVISIONS TO APPROVED PLANS

9.1 Procedure.

An applicant for a 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 procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

9.2 Submissions.

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations 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 title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

9.3 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 X – INSPECTIONS AND ENFORCEMENT

10.1 Inspection of Required Improvements.

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
 1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 9.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.
- G. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

10.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of deeds until a final plan has been approved by the Board in accordance with these regulations.

- 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 Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., Section 4452.

ARTICLE XI – PERFORMANCE STANDARDS

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 30-A M.R.S.A., Section 4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met prior to the approval of a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

11.1 Pollution.

- A. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

11.2 Sufficient Water.

A. Water Supply.

- 1. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a “capped system” shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
- 2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief.
- 3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
 - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231)
 - d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available and acceptable.

- B. Water Quality.
Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

11.3 Impact on Existing Water Supplies.

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary to alleviate existing deficiencies.

11.4 Soil Erosion.

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

11.5 Traffic Conditions.

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
 - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - 2. Avoid traffic congestion on any street; and
 - 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
 - 1. The vehicular access to the subdivision shall be arranged to avoid through traffic use of existing streets which the comprehensive plan has classified as residential access streets.
 - 2. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of the street giving access to the subdivision and neighboring streets and intersections to "E" or below, unless the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection. All costs of necessary improvements will be borne by the applicant.
 - 3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
 - 4. Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done.
 - 5. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated growth areas in the comprehensive plan; or in non-residential subdivisions when such access shall be provided if it will:
 - a. Facilitate fire protection services as approved by the fire chief; or
 - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

6. Street names, Signs and Lighting.
Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Planning Board. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be subject to the approval of the Planning Board.
7. Clean-up.
Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and top soil, limed, fertilized, and seeded.

11.6 Sewage Disposal.

- A. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge.
- B. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 1. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal rules.
 2. 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.
 3. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

11.7 Impact on the Municipality's Ability to Dispose of Solid Waste.

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

11.8 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 plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
 2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.
 3. The Board may require the application to 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.
 4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees.

- B. Retention of Open Spaces and Natural or Historic Features.
1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
 2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
 3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
 4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.
 5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
 6. Reserved open space land may be dedicated to the municipality.
 7. Where land within the subdivision is not suitable or is insufficient in amount, where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.
- C. Protection of Significant Wildlife Habitat.
- If any portion of a proposed subdivision lies within:
1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife, Beginning With Habitat Project, or the comprehensive plan as:
 - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. Critical spawning and nursery areas for Atlantic Sea Run Salmon as defined by the Atlantic Sea Run Salmon Commission: or
 2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
 3. Or other important habitat areas identified in the comprehensive plan or Beginning With Habitat Project, including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by a wildlife biologist certified by the Wildlife Society with demonstrated experience with the wildlife resource being impacted shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

- D. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space with provisions made for continued public access.
- 11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.
All lots shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance, Comprehensive Plan, and other land use ordinances.
- 11.10 Financial and Technical Capacity
- A. Financial Capacity.
The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.
- B. Technical Ability.
1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
 2. 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.
- 11.11 Impact on Water Quality or Shoreline.
Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.
- 11.12 Impact on Ground Water Quality or Quantity.
- A. Ground Water Quality
1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
 2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
 4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
- B. Ground Water Quantity.
1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
 2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

11.13 Floodplain Management

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in 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 statement 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 the plan.

11.14 Identification of Freshwater Wetlands

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

11.15 Storm Water Management.

- A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices Phase I & II*, published by the Maine Department of Environmental Protection, in conformance with the policies the comprehensive plan. The storm water management System shall be designed to meet the following standards:
 1. Quantity.
Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.
 2. Quality.
 - a. Major Subdivisions.
Storm water run-off in major subdivisions must be treated by the use of best management practices equivalent to those described in *the Stormwater Management for Maine: best Management Practices*, published by the Maine Department of Environmental Protection. All local state and federal regulation standards will be met or exceeded.
 - b. Minor Subdivisions.
Storm water run-off in minor subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater*

Management for Maine: best Management Practices, published by the Maine Department of Environmental Protection. All local state and federal regulation standards will be met or exceeded.

- B. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

11.16 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:
 - 1. The owners of the lots or dwelling units by means of a lot owners' association;
 - 2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 - 3. The municipality.
- 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. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, 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:
 - 1. It shall not be used for future building lots; and
 - 2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- D. The final plan application shall include the following:
 - 1. Covenants for mandatory membership in the lot owners' association setting forth the owners' 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 articles of incorporation of the proposed lot owners' association as not-for-profit corporation; and
 - 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.
- E. In combination, the documents referenced in paragraph D above shall provide for the following:
 - 1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
 - 2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - 3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
 - 4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

11.17 Phosphorus Impacts on Great Ponds.

A. Phosphorus Export.

1. Any subdivision within the watershed of a great pond shall limit its post development phosphorus export to the standards contained in Table 5.18.D of the Denmark Zoning Ordinance or the most recent appropriate Department of Environmental Protection data. The Board shall keep an accurate record of permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at five year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.
2. Simplified Phosphorus Review.
The simplified review may be used for:
 - c. Proposed subdivision of three or four lots with less than 200 feet of new or upgraded street with a cumulative driveway length not to exceed 450 feet for a three lot subdivision or 600 feet for a four lot subdivision;
 - d. Proposed subdivision of three or four lots with no new or upgraded street with a cumulative driveway length not to exceed 950 feet for three lot subdivisions or 1,100 feet for four lot subdivisions; or
 - e. Proposed subdivision consisting of multi-family dwelling that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.
 - d. A proposed subdivision which creates lots which could be further divided such that five or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.
3. Standard Review.
This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the applicant shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.
4. Maintenance and Use Restrictions for Phosphorus Control Measures.
Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.
 - a. Vegetative Buffer Strips.
Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners' association shall include the following standards.
 - b. Wooded Buffers.
Maintenance provisions for wooded buffers shall provide for either of the following two options.
 - (a) No Disturbance.
Maintenance and use provisions for wooded buffer strips which are located on hydrologic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.
 - (1) Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded, planted, and mulched. A shallow stone

trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.

- (2) All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.
- (3) Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- (4) No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
- (5) Buffers shall not be used for all-terrain vehicle or vehicular traffic.

- (b) Limited Disturbance.
Maintenance and use provisions for other buffer strips may include the following:
 - (1) There shall be no cleared openings. An evenly distributed stand of trees and other vegetation shall be maintained.
 - (2) Activity within the buffer shall be conducted to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
 - (3) Removal of vegetation less than four feet in height is limited to that which is necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.
 - (4) Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
 - (5) Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening, those openings shall be replanted with native trees at least three feet in eight unless existing new tree growth is present.
 - (6) Buffers shall not be used for all terrain vehicle or vehicular traffic.
- ii. Non-wooded Buffers.
 - (a) Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
 - (b) A buffer must maintain a dense, complete and vigorous cover of “non-lawn” vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
 - (c) Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
 - (d) Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

b. Infiltration Systems.
Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine department of Environmental Protection. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners’ association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

c. Wet Ponds.
A lot owners’ association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection.

ARTICLE XII – DESIGN GUIDELINES

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article II. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

12.1 Sufficient Water.

A. Well Construction

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. One lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

B. Fire Protection

1. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.
2. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
3. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds storage vaults shall be six inches.
4. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed.

12.2 Traffic Condition

A. Access Control

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
3. Subdivision Access Design for Subdivisions Entering onto Arterial Streets.
When the access to a subdivision is a street, the street design and construction standards of Section 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the stricter or more stringent shall apply.

a. General

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers.

1. Low Volume Access: An access with 50 vehicle trips per day or less.
2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.

b. Sight Distances.

Accesses shall be located and designed in profile and grading to provide the required sight distance measured in each direction. 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 curblineline or edge of shoulder,

with the height of the eye 3 ½ feet, to the top of an object 4 ¼ feet above the pavement. The required sight distances are listed by road width and for various posted speed limits.

1. Two Lane Roads. A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.
2. Four Lane Roads. The sight distances provided below are based on passenger cars exiting from accesses onto four lane roads and are designed to enable exiting vehicles:
 - (a) Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour and
 - (b) Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

Operating Speed <u>(mph)</u>	Safe Sight Distance - <u>Left (ft.)</u>	Safe Sight Distance – <u>Right (ft.)</u>
20	130	130
30	220	260
40	380	440
50	620	700

c. Vertical Alignment

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Access shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for a least 75 feet. The maximum grade over the entire length shall not exceed 10%.

d. Low Volume Accesses.

1. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

2. Curb Radius.

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 15 feet

e. Medium Volume Access.

1. Skew Angle.

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 as site conditions permit, but in no case less than 60 .

2. Curb Radius.

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the Curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

3. Width.

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

4. Curb-Cut Width.

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

f. High Volume Accesses.

1. Skew Angle.

High Volume Accesses shall intersect the road at an angle as nearly to 90 as site conditions permit, but in no case less than 60 .

2. Curb Radius.

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

3. Curb Cut Width.

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

4. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

5. Width.

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and one medians and channelization islands.

g. Special Case Accesses.

Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. Perpendicular Driveways.

a. Curb Radii.

Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.

b. Access Width.

Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

c. Access Width.

Access width shall be between 15 feet and 24 feet with a preferred width of 20 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.

d. Curb-Cut Width.

The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

h. Access Location and Spacing.

1. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed in Table 12.2-1, based upon access volume and intersection type. Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

Table 12.2-1. Minimum Standards for Corner Clearance

Access Type	Minimum Corner Clearance (feet)	
	Intersection	Intersection
	Signalized	Unsignalized
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right Turn in only	50	50
Right turn out only	100	50
Right turn in or out only	100	50

2. Access spacing.

Access and street intersections shall be separated from adjacent accesses, streets and property lines as indicated in Table 12.2-2, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between access and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

Table 12.2-2		Minimum Access Spacing			
Access Type	Minimum Spacing to Property Line (Dpl.) (feet)	Minimum Spacing to Adjacent Access by Access Type 2 (Dsp) ³			
		Medium (feet)	High w/o RT* (feet)	High w/RT* (feet)	Special Case
Low Volume	5				
Medium Volume	10	75			
High Volume (w/o RT)*	75	75	150		
High Volume (w/ RT)*	75	75	250	500	
Special Case	10	75	75	75	40***

1. Dpl measured from point of tangency of access to projection of property line on roadway edge.
2. For two more accesses serving a single parcel, or from a proposed access from an existing access.
3. Dsp measured from point of tangency of access to point of tangency of adjacent access.

*High volume access without right turn channelization.

**High volume access with right turn channelization.

***Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

i. Number of Accesses.

The maximum number of accesses on to a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

j. Construction Materials/Paving.

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses, regardless of access volume, shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

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 any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- b. Applicants 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 a 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. Centerline gradients.
 8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment.
 - 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 these standards up to and including that lot.
 - e. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
 - f. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan. "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards and are accepted by the town.
2. Street Design Standards.
- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, 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 and will meet the performance standards of Article 11.
 - b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
 - c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
 - d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the comprehensive plan indicates 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 zoning ordinance. When such widening or realignment is included in the municipality's capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
 - e. 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, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
 - f. The design standards of Table 12.2-3 shall apply according to street classification.

Table 12.2-3. Street Design Guidelines

<u>Description</u>	<u>Type of Street</u>				
	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Rights-of-Way</u>	<u>Industrial/Commercial</u>
Minimum Right-of-Way Width	80'	50'	50'	50'	50'
Minimum Traveled Way Width	44'	24'	20'	18'	30'
Minimum Width of Shoulders (each side)	5'	3'	3'	3'	9'
Sidewalk Width	8'	5'	5'	N/A	8'
Minimum Grade	0.50%	0.50%	0.50%	N/A	0.50%
Maximum Grade*	5%	6%	8%	8%	5%
Minimum Centerline Radius without superelevation	500'	280'	280'	175'	400'
with superelevation	350'	175'	175'	110'	300'
Roadway Crown**	¼"/ft	¼"/ft	¼"/ft	***	¼"/ft
Minimum angle of street intersections****	90	90	75	75	90
Maximum grade within 75ft. of intersection	3%	3%	3%	N/A	3%
Minimum curb radii at intersections	30'	25'	20'	N/A	30'*****
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

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

** Roadway crown is per foot of lane width.

*** Gravel surfaces shall have a minimum crown of ¾ inch per foot of lane width.

**** Street intersection angles shall be as close to 90 as feasible but no less than the listed angle.

***** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

g. The centerline of the roadway shall be the centerline of the right-of-way.

h. Dead End Streets.

In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:

Property line: 60 feet; outer edge of pavement: 60 feet; inner edge of pavement: 30 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 60 foot easement in line with the street to provide continuation of the road where future subdivision is possible.

i. Grades, Intersections, and Sight Distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
2. 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)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3 ½ feet and the height of object at ½ foot.

3. Where new street intersections or driveway cut-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 ½ feet, to the top of an object 4 ¼ feet above the pavement.

Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft)	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

j. Sidewalks.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but is recommended to locate sidewalks a minimum of 2 ½ feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

- (a) The "subbase" aggregate course shall be no less than twelve inches thick after compaction
- (b) The hot bituminous pavement surface course shall be MDOT plan Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks

- (a) The "subbase" aggregate shall be no less than twelve inches thick after compaction.
- (b) The Portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

- k. Curbs shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in table 12.2-4.

Table 12.2-4. Minimum Pavement Materials Thicknesses

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Rights-of-Way</u>	<u>Industrial/ Commercial</u>
Aggregate Sub-base Course (Max. sized stone 6")					
Without base gravel	24"	18"	18"	15"	24"
With base gravel	20"	15"	15"	12"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3"	3"	3"	N/A	4"
Surface Course	1 1/4"	1 1/4"	1 1/4"	N/A	1 1/4"
Base Course	1 3/4"	1 3/4"	1 3/4"	N/A	1 3/4"
Surface gravel	N/A	N/A	N/A	3"	N/A

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 necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, 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 two 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 roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either 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 a Maine Department of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1. Bases/Sub-base.

- (a) The aggregate sub-base course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-5.

Table 12.2-5. Aggregate Sub-base Grading Requirements	
<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
¼ inch	25-70%
No. 40	0-30%
No. 200	0-7%

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

- (b) If the Aggregate sub-base Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the sub-base course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 12.2-6. Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

Table 12.2-6. Base Course Grading Requirements	
<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0-5%

2. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

3. Pavements.

- (a) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35 F or higher and the surface to be paved is not frozen or unreasonably wet.
- (b) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than ¾ inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate

characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50° F or higher.

4. Surface Gravel.

Private Rights-of-Way need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate sub-base, shall have no stones larger than two inches in size and meet the grading requirements of Table 12.2-7.

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
2 inch	95-100%
½ inch	30-65%
No. 200	7-12%

3. Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.

A. Preservation of Natural Beauty and Aesthetics.

1. Unless located in areas designated as a growth comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
2. Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the sub-division. When the sub-division contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.
3. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top., These restrictions shall appear as notes on the plan and as covenants in the deed.
4. When a proposed subdivision street traverses open fields, the plan may include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

B. Retention of Open Spaces and Natural or Historic Features.

1. The subdivision shall reserve at least 10% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
2. Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space for such things as ball fields, playgrounds or other similar active recreation facilities. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.
3. Site selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage. The configuration

of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

4. Proposed subdivisions which include or are adjacent to buildings or sites on the National register of Historic Places or which the comprehensive plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in Section 11.8.C.

1. Protection of Habitat of Endangered or Threatened Species.
 - a. Habitat or species appearing on the official state or federal lists of endangered or threatened species shall be placed in open space.
 - b. Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within 250 feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.
2. Protection of Waterfowl, Shorebird, and Wading Bird Habitat, Atlantic Salmon Spawning and Nursery Areas.
 - c. There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of the following habitat areas:
 1. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 2. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 3. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
 4. Other important habitat areas identified in the comprehensive plan.
 - d. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
4. Protection of Deer Wintering Areas.

The report prepared by a wildlife biologist, selected or approved by the Board, shall include a Management plan for deer wintering areas.
5. Protection of Important Shoreland Areas.
 - a. Except as in areas described in Section 12.3C.2, within all areas subject to the state mandated 250 foot shoreland zone:
 1. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 ½ feet above the ground level on any lot in any ten year period.
 2. Cleared openings for development, including but no limited to, principal and accessory structures, driveways and sewage disposal areas, shall no exceed in the aggregate, 25% of the lot area or 10,000 square feet, which ever is greater, including land previously developed.
 - b. These restrictions shall appear as notes on the plan and as deed restrictions to the effected lots.
5. If the proposed subdivision includes important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife, Beginning With Habitat Project, or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist and their comments presented in writing to the Board.

12.4 Storm Water Management Design Guidelines.

- A. Design of best management practices shall be substantially equivalent to those described in the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995.
- B. Drainage easements for existing water courses or proposed drainage ways shall be provided at least 30 feet wide, conforming substantially with the lines of existing natural drainage.
- C. The minimum pipe size for any storm drainage pipe shall be 15 inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three inches, lumps of clay, organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- D. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
- E. Storm Drainage Construction Standards.
 - 1. Materials
 - a. Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
 - b. Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a fifty-year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.
 - c. Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.
 - 2. Pipe Gauges.
Metallic storm drainage pipe shall meet the thickness requirements of Table 12.4-1, depending on pipe diameter:

Table 12.4-1 Culvert Size and Thicknesses Material			
<u>Inside Diameter</u>	Galvanized CMP		Aluminum Coated CMP <u>Polymer Coated CMP</u>
	Aluminum/Zinc Coated CMP <u>Corrugated Aluminum Alloy</u>		
15" to 24"	14 ga.		16 ga.
30" to 36"	12 ga.		14 ga.
42" to 54"	10 ga.		12 ga.
60" to 72"	8 ga.		10 ga.

- 3. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the municipal engineer.
 - 4. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs manholes shall be placed at a maximum of 400 foot intervals.
- F. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

12.5 Impact on Water Quality or Shoreline.

Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

- A. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
- B. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four inches or more in diameter, measured at 4 ½ feet above ground level may be removed in any ten year period.
- C. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
- D. Pruning of tree branches, on the bottom third of the tree is permitted.

12.6 Blocks.

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 12.3B.2.j. Maintenance obligations of the easement shall be included in the written description of the easement.

12.7 Lots.

- A. Where possible, side lot lines shall be perpendicular to the street.
- B. 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 these regulations and conditions placed on the original approval.
- C. If a lot on one side of a stream, tidal water, 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, tidal water, or road to meet the minimum lot size.
- D. 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.
- E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

12.8 Utilities.

Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125 feet or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

12.9 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 pre-cast 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 or less.

- C. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole ½ inch deep shall locate the point or points described above.
- D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

12.10 Cluster Developments.

A. Purpose.

The purpose of these provisions is to allow for flexibility in the design of housing developments 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 zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances.

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 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 if no services by public sewer have an area suitable for subsurface waste water disposal according to the Maine Subsurface Waste Water 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 soils, moderate-to-high yield aquifers and important natural or historic sites identified by the comprehensive plan as worthy of preservation. The statement shall also compare the impacts upon the municipality from each plan. Examples of impacts are municipal cost for roads, school bussing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land and provision of land for conservation use. Within ten days of receiving the application, the Board shall invite comments on the application from the conservation commission, the recreation commission, other appropriate town agencies, and abutters. Within thirty days of receiving the application, the board shall determine whether to allow the subdivision to 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 these regulations.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
 - a. 15% of the area of the lot to account for roads and parking.
 - b. 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 Board.
 - c. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.

- d. 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:
 - 1. slopes greater than 20%
 - 2. organic soils.
 - 3. wetland soils
 - 4. 50% of the poorly drained soils
 - 5. coastal sand dunes
 - e. Portions of the lot subject to rights of way.
 - f. Portions of the lot located in the resource protection zone.
 - g. Portions of the lot covered by surface waters.
 - h. Portions of the lot utilized for storm water management facilities.
4. 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 zoning ordinance. No building shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
 5. Unless a community sewage collection and treatment system is provided, no lot shall be smaller in area than 20,000 square feet.
 6. 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 zoning ordinance. No less than 30% of the reserved open space shall be usable open space.
 7. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land
 8. The distance between buildings shall not be less than 20 feet.
 9. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development
 10. Shore frontage shall not be reduced below the minimum normally required by the zoning ordinance.
 11. 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.

12.11 Phosphorus Export.

- A. When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffer strips shall be provided in accordance with the following table. Buffer strips shall be provided on the down hill side of all lots along all tributaries to great ponds and along the great pond.

The minimum required width of buffer strips are designated in Table 12.11-1 and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

Table 12.11-1		Buffer Strip Widths in Watershed of Hypothetical Pond	
Phosphorus Standard: 0.07 – 0.08 lbs./acre			
<u>Lot Size</u>	<u>H.S.G.</u>	<u>Buffer Width (ft.) per lot</u>	
		<u>Clearing Restricted to 12,500 sq. ft</u>	<u>No Clearing Restrictions</u>
<1 Acre	A	75	85
	B	130	150
	C	NA	NA
	D	NA	NA
1-1.99 Acres	A	25	25
	B	25	55
	C	55	190
	D	200	NA
2-2.99 Acres	A	25	25
	B	25	25
	C	25	50
	D	25	200

H.S.G. is the Hydrologic Soil Group
All lots 3 acres and larger shall provide a minimum 25-foot buffer

- B. When the proposed subdivision is within the direct watershed of a great pond and does not qualify for simplified reviewed, the phosphorus control measures shall meet the design criteria in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised September, 1992.

ARTICLE XIII – PERFORMANCE GUARANTEES

13.1 Types of Guarantees.

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover a the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

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

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

13.2 Contents of Guarantee.

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

13.3 Escrow Account.

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

13.4 Performance Bond.

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

13.5 Letter of Credit.

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

13.6 Conditional Agreement.

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

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

Notice of the agreement and any conditions shall be on the final plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

13.7 Phasing of Development.

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

13.8 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

13.9 Default.

If upon inspection, the municipal engineer or other qualified individual retained by the municipality finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

13.10 Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

APPENDIX A

Sample Letter of Credit

Jane Planner, Chairman
Your Town Planning Board
Town Hall
Your Town, ME 04000

Dear Ms. Planner;

Re: Letter of Credit: Developer, Inc., Sunshine Estates, Your Town, Maine

This letter will confirm to Your Town that the Big Town Savings Bank has issued a loan commitment to Developer, Inc. for the purpose of constructing all required improvements in the "Sunshine Estates" subdivision.

Big Town Savings Bank will set aside \$230,000 in a Construction Escrow Account, for completion of the required improvements. This account can be drawn upon by Your Town in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before (two years from date of Final Plan approval).

Approximate Length of road 2,350 feet:

- A. Grub roadways full width of 50 feet - \$4/ft. \$9,400
- B. Shape sub-base and grade it - \$4/ft. 9,400
- C. Install under drain culverts - \$16/ft. 37,600
- D. Install sewer \$22/ft. x2,050 plus pump \$16,500 61,600
- E. Install water mains \$14/ft x 2,400 33,600
- F. Apply and shape 18" gravel base \$8.30/ft x 2350' 19,500
- G. Apply and shape 3" of crushed gravel; apply 1 3/4" of base course bituminous concrete to width of 24', apply bituminous curb and 2" of bituminous concrete to a width of 5', \$10/ft.. x 2350' 23,500
- H. Apply 3/4" of surface bituminous concrete to width of 24' - \$5/ft 11,800

Big Town Savings Bank understands that Developer, Inc., or the contractor, will notify the Town engineer or Code Enforcement Officer before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This Account shall expire when Your Town acknowledges in writing to Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with Your Town's subdivision regulations and street acceptance ordinance, and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H which has not been completed and approved by the Town on that date shall be released to the Town to complete such work. As the Town Engineer or Code Enforcement Officer has issues his written approvals for each step above to Developer, Inc. the funds in this Account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular subdivision and to complete any work, which is outlined above. Furthermore drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (six to nine months following date specified above). Your Town shall not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very Truly Yours,

Loan Officer

SEEN AND AGREED TO: _____
Developer, Inc.

Your Town hereby accepts said original letter as evidence of its satisfaction of Developer Inc.'s obligation to be performed.

YOUR TOWN

By _____
Town Manager

APPENDIX B

Sample Storm Drainage Easement

KNOW ALL MEN BY THESE PRESENTS:

That _____, of _____, County of _____, being the owner of a certain lot or parcel of land in the Town of _____, County of _____ and State of Maine, which premises are more fully described in a certain subdivision plan entitled _____, by _____, dated _____, and recorded in the _____ County Registry of Deeds in Plan Book _____, Page _____, which description of said premises is included herein by reference. For and in consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of _____, State of Maine, the receipt of which is hereby acknowledged, Grantor(s) do(es) hereby give, grant and quit-claim unto the said Inhabitants of the Town of _____ an easement and right-of-way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and _____ () feet in length across Lots numbered _____ and shall be located as shown on the above- mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right-of-way unto the said Inhabitants of the Town of _____ for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of _____ the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within said easement without the express written consent of the Director of the Town of _____ Department of Public Works and the Town Engineer of the Town of _____.

IN WITNESS WHEREOF, the said _____ have hereunto set my (our) hand(s) and seal(s) this _____ day of _____, in the year of our Lord one thousand nine hundred and _____.

SIGNED, SEALED AND DELIVERED
in presence of

STATE OF MAINE

_____, ss. _____, 19____
Personally appeared, before me, the above-mentioned _____
and acknowledged the foregoing instrument to be _____ free act and deed.

Notary Public/Justice of the Peace

APPENDIX C

Model Notice of Decision for Subdivision Review

Date: _____

To: _____

Dear _____;

This letter is to inform you that the _____ Planning Board has acted on your application for a subdivision as follows:

Findings of Fact

1. The owner of the property is _____.
2. The property is located at _____, in the _____ zoning district, identified as Assessor's Map _____, Lot _____, and contains _____ (acres, sq. ft.).
3. The applicant is _____, who has demonstrated a legal interest in the property by providing a copy of a (deed, option, purchase and sales agreement.)
4. The applicant proposes to establish a _____ lot subdivision on the subject property. The lots range in size from _____ (sq. ft., acres) to _____ (sq. ft., acres).
5. A completed application was submitted on _____.
6. A public hearing was held on _____.
7. Water is to be supplied by (private wells, the _____ Water District).
8. Sewage is to be disposed of by (individual subsurface disposal systems, the _____ Sewer District). Site evaluations for each lot, meeting the requirement of the Maine Plumbing Rules were completed by _____, Licensed Site Evaluator, on _____. (or) The _____ Sewer District has approved the plans for sewer lines and indicated it will be able to adequately treat the waste.
9. A storm water drainage plan has been prepared by _____, P.E.
10. The applicant has submitted a (certified check, certificate of deposit, a performance bond, a letter of credit) adequate to cover the costs of all required improvements.
11. _____.
12. _____.

Conclusions

1. The criteria of Title 30-A M.R.S.A., ?4406, subsection 3 have been met. (or) The following criteria of Title 30-A M.R.S.A., ?4406, subsection 3 have not been met: _____, _____, _____.
2. The standards of the Town's subdivision (regulations, ordinance) have been met, except for the following which have been waived by the Planning Board: _____, _____, _____. (or) The following standards of the Town's subdivision (regulations, ordinance) have not been met: _____, _____, _____.
3. _____.
4. _____.

Decision

Based on the above facts and conclusions, on _____, the Planning Board voted to (approve, deny) your application for a subdivision.

(If Approved)
Conditions of Approval

In order to further promote the purposes of the State Subdivision Law, the Town's Subdivision (Regulation, Ordinance), Zoning Ordinance, and Comprehensive Plan, the Planning Board has voted to impose the following conditions on the approval of this subdivision:

- 1. _____.
- 2. _____.
- 3. _____.

If Denied:
(In accordance with Section _____ of the _____ Subdivision (Regulations, Ordinance), you have the right to appeal this decision to (Superior Court, the Board of Appeals) within thirty days of this notice.)

Sincerely,

Chairman

cc: Code Enforcement Officer
Municipal Officers

ORDINANCE
GOVERNING THE LARGE SCALE PUMPING OR EXTRACTION
OF GROUNDWATER, SPRING WATER AND/OR WATER FROM AQUIFERS
WITHIN THE MUNICIPALITY OF DENMARK, MAINE

*Amended by Special Town Meeting
October 9, 2006
Amended by Annual Town Meeting
June 2, 2012*

Article I. Purpose

The purpose of this ordinance is to protect the quality and quantity of groundwater, spring water and/or water in aquifers and their recharge areas located wholly or partially within the Town of Denmark, to insure that any large scale water extraction is subjected to prior review and approval so as to establish the ongoing sustainability and quality of said water supplies and the avoidance of any interruption or degradation of water quality and quantity to members of the general public within the town, and generally to protect the health, safety and welfare of persons dependent upon such water supplies; additionally to provide for the imposition of an impact fee(s) against any proposed water extraction subject to this ordinance to fund or recoup the cost of new, expanded or replacement infrastructure facilities necessitated by and attributable, in whole or in part, to the extraction or activities incidental to such extraction.

Article II. Authority

This ordinance is adopted and enacted pursuant to the Maine Constitution, Article VIII, Part Second, 30 A MRSA 2101 et seq (“Municipal Home Rule”), and 30A MRSA 3001 - 3006 (“Ordinance Power”), and 30 A MRSA 4301 (6A) and 30 A MRSA 4354 (“Impact Fees”).

Article III. Definitions

Words and phrases, unless their context requires otherwise, shall be defined as follows: first as set forth below, second in accordance with their generally accepted technical meaning within the involved scientific disciplines, third as defined by Maine Statutes, and fourth their common dictionary definition.

“Aquifer” means a saturated permeable geologic unit that can transmit significant quantities of water under ordinary hydraulic gradients.

“Extraction” (or “water extraction” or “extraction of water”) means withdrawal, removal, diversion, taking, or collection by any means of water from ground water sources, aquifers, springs, wells, pumps or similar.

“Extraction point” or “Extraction facility” means the physical location where water is extracted, whether by well, pump, pipeline, catchment, or other similar method.

“Large scale water extraction” means extraction of water from ground water sources, aquifers, springs, wells or similar in a total daily amount on any given day of 5000 gallons or more, as extracted by the same individual or entity, or consortium or association of individuals or entities, regardless of the number of extraction facilities utilized.

“Reviewing authority”, “reviewing agency”, “Board of Selectmen” and “Boards” are used interchangeably in this ordinance and have the same meaning, all referring to the Municipal Officers (Board of Selectmen), of the Town of Denmark, Maine.

“water bodies” or “surface water(s)” means lakes, ponds, river, streams, wetlands and similar.

“Zone of Contribution” means that area of an aquifer that contributes water to a well or other extraction point under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield with no recharge from precipitation). It is bounded by the groundwater divides that result from pumping the well and by the contact of the aquifer with less permeable materials such as till or bedrock. In some cases, streams or lakes may act as recharge boundaries. In all cases the zone of contribution shall extend up gradient to its point of intersection with prevailing hydrogeologic boundaries (a groundwater flow divide, a contact with till or bedrock, or a recharge boundary).

Article IV. Large Scale Water Extraction

A. Permit Required

The daily (meaning on any given day) extraction of more than 5000 gallons of ground water, spring water and/or water from aquifers or their recharge areas by any one entity or person, or consortium or association of entities or persons acting in concert, regardless of the number of extraction facilities utilized, shall require a written permit issued by the Board of Selectmen under this ordinance, whose jurisdiction and authority shall be exclusive with respect to the issuance or denial of any such permit, including permit conditions pertaining to such extraction and/or transport of water so extracted within the geographic limits of the Town of Denmark, after public hearing and opportunity for public comment.

B. Inapplicability

The requirement of review and approval shall not apply to extraction of water

which is to be used within the Town of Denmark for standard agricultural purposes; drinking water and domestic water supply to private residences within the Town of Denmark; water supply for public facilities such as schools within the Town of Denmark; fire suppression; or for on site residential, commercial and industrial purposes within the Town of Denmark to the limit of their historical use of water which exist as of the date of the adoption of this ordinance.

C. Application Requirements

1. The application shall be in writing and be accompanied by site plans prepared by a licensed surveyor, licensed engineer, or similar appropriately licensed professional. Any application shall be accompanied by an application fee payable to “Town of Denmark” for each proposed extraction point, in accordance with the following schedule:
 - (a) Initial application = \$500.00
 - (b) Amended application = \$250.00
 - (c) Renewal application = \$ 100.00.

2. The application shall include:
 - (a) evidence of applicant’s right, title and interest in and to the property(ies) from which the water is to be extracted. If such evidence is other than outright ownership and title as evidenced by a deed duly recorded in the Oxford (WD) Registry of Deeds, the entire document/documentation (other than reference(s) to purchase price and financing terms, which may be redacted) whether by lease, option, contract or otherwise establishing right, title and interest shall be submitted with the application.

 - (b) a statement of the total maximum daily quantity of water to be extracted, from all extraction points operated by the same individual or entity, or consortium or association of individuals or entities.

 - (c) the location(s) of the points of extraction.

 - (d) the method(s) of extraction.

 - (e) the proposed use for which the water is to be extracted, including the identity of any end user of the extracted water whose facilities for use, processing, transporting, storage, bottling, sales or other similar activities are located outside the Town of Denmark.

 - (f) a copy of any application and exhibits and reports for such extraction filed or to be filed with any other municipal authority or any agency or department of the State of Maine, including as required by 22 MRSA 2660 et seq. (transport of water for commercial purposes,) or under applicable

Department of Human Services rules and regulations.

- (g) a copy of any permit, approval, or denial for such extraction or transport as may have been issued by any agency referred to in (f) above.
- (h) a written report, certified to the Denmark Board of Selectmen procured and paid for by the applicant, of a hydrogeologic investigation and study, conducted and prepared by a licensed professional hydrogeologist, geologist, hydrologist, registered professional engineer or other appropriately licensed professional possessing in the judgment of the Board of Selectmen comparable credentials and qualifications. The report must address at least the following:
 - (1) the rates of draw down and recharge of any aquifer or other ground water source as may have been established by a pumping or “stress test” or other similar testing regime in accordance with accepted standards within the geology and engineering professions.
 - (2) the characteristics of the aquifer or other ground water source, including rates of draw down and recharge, sustainable extraction rates, aquifer boundaries, recharge areas, impacts on the water table, and impacts on any and all existing water bodies including but not limited to lakes, ponds, rivers, streams and wetland areas and private wells or other existing extraction locations within the zone of contribution.
 - (3) possible effects on the aquifer or other ground water resources which might result in the disturbance of existing minerals such as, but not limited to, iron, manganese, arsenic, and uranium, and any health hazards raised by such disturbance(s) or other impacts including issues such as drinking water turbidity, clarity and aroma.

3. The application shall be accompanied by:

- (a) written notification of the application and an explanation of the intent, scope and location of the proposed water extraction in terms readily understandable to a layman to be addressed and mailed to, via certified mail, return receipt requested, the following:
 - (1) the owners of record of all parcels of land lying above the aquifer or other water source cited in the application,
 - (2) the owners of record of all parcels of land lying within 500 feet of the outside perimeter of the aquifer or other water source cited in the application,
 - (3) the owners of record of all parcels of land having frontage on any body

of water whether lake, pond, river, stream or wetland within 500 feet of the outside perimeter of the aquifer or other water source cited in the application, even though such individual parcels may themselves lie more than 500 feet from the outside perimeter of said aquifer or other water source.

- (4) for purposes of these notification requirements an applicant is entitled to rely on the information on file at the Denmark Town Office as represented by its most recent assessors' maps and the mailing addresses maintained by the Town as to the owners of the affected parcels shown thereon. Actual posting of the certified mail notices is not required until the application is declared or deemed to be complete. See D(6) below.
- (5) for good cause shown the above notice requirements may be modified by the Board of Selectmen where, for example, it can be established that a body of water, a portion of which lies within 500 feet of the outside perimeter of the aquifer or other water source, extends so far from the proposed extraction point(s) that actual notice to the owners of all land having frontage on that body of water is not necessary.

(b) a small scale site plan depicting at least the following:

- (1) the limits (outside perimeter) of the aquifer or other water source cited in the application, and the bounds of the land of the applicant.
- (2) the location of all water bodies located within 500 feet of the outside perimeter of the aquifer or other water source.
- (3) the location(s) of the proposed extraction points.
- (4) the existing network of public or private roads leading to or by the extraction point(s).
- (5) any proposed new roads or driveways to be constructed for access to and egress from the extraction point(s), and the point(s) of intersection of such proposed roads or driveways with existing roads.
- (6) any existing or proposed utility lines to be utilized in the extraction operation(s).
- (7) the location and type of monitoring and test wells.
- (8) any existing or proposed pipes, roads, highways, easements or rights of way, pipelines, aqueducts or similar that are intended to facilitate transport of extracted water from the extraction point(s) towards the

intended end user, if any part of the extracted water is ultimately to be transported outside the geographic limits of the Town of Denmark. To the extent any proposed transport of extracted water will utilize, cross or merge with state highway, town roads or public easements a detailed disclosure of the traffic routes to be employed, the types of vehicles to be utilized, the loaded weight of the vehicles to be used, and the number of daily vehicle trips (both arrivals and departures at any load out station(s)) shall be included on the plan, or appended to the plan in a narrative or tabular format as appropriate.

(9) any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected land owners or the public from developing a full understanding of the scope and impact of the proposal.

(c) a large scale site plan depicting at least the following:

(1) A detailed plan of the extraction point(s) including without limitation well heads, pumping facilities, monitoring or test wells, buildings, sheds, paving, vehicular drives, parking and turn around, utility lines, fencing, access roads or driveways, elevation and contour lines.

(2) any other relevant and material detail(s) bearing on the proposed extraction process the omission of which would tend to hinder the ability of the reviewing authority, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.

D. Application Process

1. The entire application, including studies, reports, site plans and all other items referred to in Article IV (C) above shall be submitted to the Board of Selectmen in triplicate.
2. The Board of Selectmen shall have thirty (30) days from the date of submission to conduct a preliminary review of the application solely for the purpose of determining whether the application is complete as required by this ordinance. For good cause shown, and upon receipt of confirmatory independent technical advice, the Board of Selectmen may waive one or more of the application details upon a determination that such details are unnecessary, unobtainable as a practical matter or duplicative and that such waiver would not tend to hinder the ability of the Board, affected landowners or the public from developing a full understanding of the scope and impact of the proposal.
3. If within said thirty (30) day period the Board of Selectmen deem the

application incomplete in any material or relevant respect it shall so inform the applicant by the best practical means, either by writing or verbally at a regularly scheduled meeting of the Board at which the applicant or its duly authorized representative is present after which the applicant shall have a reasonable period of time, not to exceed sixty (60) days to complete its application in accordance with this ordinance, upon failure of which the application shall be deemed withdrawn.

4. If by the end of said thirty (30) day period for review for completeness the Board of Selectmen have not informed the applicant the application is incomplete it shall as a result be deemed complete, in which case the Board shall schedule a public hearing on the application at a date not later than sixty (60) days from the date the application was originally submitted, or not later than sixty (60) days from the date a supplemented application originally deemed incomplete, was reviewed for completeness and declared (or deemed by the passage of a thirty (30) day period) complete.
5. Any review of the application by the Board of Selectmen or its agents for completeness is preliminary only and is not to be deemed a substantive review, and confers no vested rights upon the applicant or under the application. Substantive review shall not be deemed to occur until the convening of a public hearing on the application under this ordinance.
6. Applicant's obligations of written notification via certified mail of property owners as set forth in Article IV (C) (3) above shall not accrue until the application is declared or deemed complete under this ordinance.

E. Review Process; Hearing Process

1. The completed application shall be reviewed by the Board of Selectmen at a public hearing convened for that purpose, pursuant to 15 days' published notice in a newspaper of general circulation within the Town of Denmark and posting of notice at three conspicuous public places within the Town, and upon confirmation on the hearing date that certified mail notice has been sent to all affected landowners as previously set forth in this ordinance.
2. The Board of Selectmen shall be entitled to adopt whatever procedural rules for the hearing, including the imposition of reasonable time limits for the presentations of the applicants, opponents if any, and the general public, it deems appropriate, fair and reasonably calculated to afford a full consideration of the issues pertaining to the application.

F. Extension or Modification of Time Limits

For good cause shown the Board of Selectmen may extend or modify any of the deadlines or timelines above so as to reasonably accommodate the demonstrated needs of the applicant, intervenors, the public or the Board so long as such extension or modification does not materially prejudice the substantial rights or interests of any person

G. Decision; Performance Standards

1. Upon the adjournment of the public hearing the Board of Selectmen shall schedule a public session of the board, to occur not later than thirty (30) days from the final adjournment of the public hearing, to deliberate and render a decision.
2. The Board of Selectmen's decision may be:
 - (a) to approve the application;
 - (b) to deny the application; or
 - (c) to approve the application conditionally, with conditions or stipulations upon the satisfactory completion of which the application will be finally approved Provided however, any approval (conditional or unconditional) shall require the Board's determination that the applicant has satisfied all of the performance standards set forth below, and shall further be subject to any alert levels and action levels as determined under Section 3 immediately following.
 - (d) any approval shall specify that it is only for a daily extraction total not exceeding the maximum daily quantity set forth in the application, nor exceeding the specified aggregate annual total calculated thereby, and any increase in such daily totals or aggregate annual totals shall require further application and review in accordance with this ordinance.
3. The Board shall issue a written decision with findings of fact and rulings and conclusions not later than thirty (30) days from the date on which it votes at a public session to approve, deny or approve with conditions, and a copy of such written decision shall thereupon promptly be provided to applicant, and otherwise be available publicly.

Any approval issued hereunder must contain action level(s), to be based on the best hydrogeologic monitoring analysis and modeling available at the time of approval The action levels shall where possible define hydrogeologic standards at two levels: "alert" and "action".

Alert levels shall be those hydrogeologic conditions as indicated by monitoring data and visual observation from monitoring wells, stream gauges and lake and

pond gages which indicate a developing or impending adverse effect on the aquifer from which the water is, or is to be, extracted or affected surface water bodies in the vicinity. Upon reaching an alert level the Board, through its designated technical representative, shall require the applicant to provide more frequent and intensive monitoring activities than may be originally contemplated by the application or any original approval thereof.

Action levels shall be those hydrogeologic conditions as indicated by monitoring data and visual observation from monitoring wells, stream gages and lake and pond gages which indicate that a adverse effect on the aquifer from which the water is, or is to be, extracted or on affected surface water bodies in the vicinity, or which establishes an imminent threat to private water wells in the vicinity. Upon reaching an action level the Board, upon advice of its designated technical representative, shall order all pumping and extraction activities to be reduced or ceased until such time as the Board deems that hydrogeologic conditions creating the descent to action levels have been or will be rectified, and that any threat or risk of harm to the aquifer, surface water bodies, and/or private wells has abated.

The setting of alert levels and action levels with respect to a given water extraction activity will normally be developed and refined through the ongoing monitoring regime specified in this ordinance or any permit issued hereunder. The Board reserves the right, as such monitoring data becomes available for evaluation and correlation, to impose, amend or revise alert and action levels, after notice to any applicant or permit holder, with an opportunity to be heard, as an addendum/addenda to any permit. Notwithstanding the foregoing, in the event existing monitoring data or monitoring data developed during any pre-extraction test phase, or other established hydrogeologic conditions developed or existing prior to the undertaking of sustained extraction activities under any permit issued hereunder, adequately support the establishment of pre-pumping alert levels or action levels the Board may impose them, either as part of any original permit, or as an addendum to any issued permit, and in such case where an action level is reached prior to pumping or the commencement of sustained extraction activities, then in such case no pumping or extraction shall commence in the first place until such time as the Board deems that hydrogeologic conditions safe for extraction have been or will be restored.

4. Any extraction authority granted hereunder shall be for an initial period¹ not to exceed three (3) years, but may be renewed subject to the same criteria contained herein.

With respect to an application for a permit renewal if, after notice and hearing as referred to in Article IV (E) above, the reviewing authority finds the following, a renewal permit for a period of five (5) years² shall be issued:

¹ Amended at June 2, 2012 Annual Town Meeting

² Amended at June 2, 2012 Annual Town Meeting

- (a) There is no increase in the permit holder's extraction activities in terms of the quantity of water to be extracted; and
- (b) There is no change in the location or configuration of the extraction facility; and
- (c) There has been no material failure by the permit holder to comply with any conditions of the expiring permit; and
- (d) There has been no material failure by the permit holder to meet the performance standards applicable to the expiring permit; and
- (e) There is no significant, credible evidence that the permit holder's continuing operations would be unable to meet the performance standards of the ordinance during any renewal period.

Any application for a renewal permit must be filed with the reviewing authority not less than 90 days prior to the expiration of the existing permit. The Board of Selectmen is authorized to amend the term of any renewal permit existing as of June 2, 2012 from three (3) years to five (5) years, from the date of granting said renewal, by endorsement to that effect upon such renewal permit.³

Article V. Performance Standards

No approval shall be granted any application until and unless the reviewing authority shall have affirmatively found that each of the following performance standards has been or will be met, the burden of establishing and demonstrating compliance with which is solely the applicant's. Applicant must also demonstrate to the reviewing authority that it possesses the expertise and financial resources to provide continuing adherence to these standards.

A. Geologic and Hydrologic Standards

1. The quantity of water to be extracted will not cause undesirable changes in ground water flow patterns relating to the aquifer, its recharge areas, or other ground water sources within the Town.
2. The quantity of water to be extracted will not negatively impact, diminish or alter any surface waters within the Town, including during any periods of drought.
3. The quantity of water to be extracted will not cause any ground subsidence beyond the property lines of applicant's property.

³ Amended at June 2, 2012 Annual Town Meeting

4. The quantity of water to be extracted will not adversely affect the long term sustainability of the aquifer, or its recharge areas, or other groundwater source, including during periods of drought.
5. The proposed extraction will not create a health risk or issues such as drinking water turbidity, clarity or aroma resulting from the disturbance of existing minerals, or from any other cause, with ongoing follow up monthly testing for this purpose, results to be provided in writing to the Denmark Code Enforcement Officer on at least a monthly basis.
6. The establishment of an ongoing follow up monitoring system and development of a system of recording and documenting extraction and recharge data, within the zone of contribution, to be reported in writing to the Denmark Code Enforcement Officer and the town's independent expert on at least a monthly basis. At least 25% of monitoring locations shall be at private wells located within the zone of contribution. As part of this monitoring process the Denmark Code Enforcement Officer shall have periodic access, as specified in any permit issued hereunder, and upon reasonable notice, to any extraction and load out points and facilities to record and confirm pump meter readings.
7. In determining whether these performance standards have been met, consideration shall be given to any existing extraction application or permits, under this ordinance, from the same aquifer or zone of contribution.

B. Impacts on the General Vicinity

1. The applicant assumes any and all liability for the loss, interruption, degradation or interference with the preexisting beneficial domestic use of groundwater by a land owner or lawful land occupant, or other public or private water supply, caused by applicant's withdrawal or extraction of water.

For purposes of this section "beneficial domestic use", "groundwater" and "preexisting use" shall be as defined by 38 MRSA 404 - 1A-C.

For purposes of this section liability of applicant shall be for compensatory damages only, and shall be limited to the following:

- (a) All costs necessary to restore the landowner or lawful land occupant to a status which is reasonably equivalent in terms of quantity and quality of ground water, made available on a similarly accessible and economic basis;
- (b) Compensatory damages for loss or damage to property, including, without limitation, the loss of habitability of residence, caused to the

landowner or lawful land occupant by reason of the interference prior to restoration of the status provided for a subparagraph (a); and

- (c) Reasonable costs, including expert witness and attorney fees incurred in initiating and prosecuting an action when necessary to secure a judgment granting the relief provided for under this section.

The reviewing authority shall require the furnishing of a bond or other performance guaranty it deems of equivalent security to secure the applicant's obligations under this section, which shall be submitted and approved by the reviewing authority prior to commencement of any water extraction contemplated by the application. The bond, guaranty or other security requirements, including the amount and form, shall be determined by the Board of Selectmen after consideration of the circumstances specific to a given application, and after consultation by the Board with such persons they deem advisable and appropriate which may include, but necessarily be limited to, the Town's designated technical agent, the Town Manager, the Town Attorney, the Town Code Enforcement Officer, insurance underwriters, and banking professionals.

2. Provision shall be made for vehicular access to extraction facility(ies) and for circulation, loading and unloading upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians on adjacent streets or roads, to avoid traffic congestion and traffic safety hazards, or other safety risks
3. Any driveways or access roads to the extraction facility(ies) shall be designed in profile and grading and located so as to provide sight distances as set out in the Denmark Zoning ordinance section 5.16 (B)(1).
4. Driveways or access roads to the extraction facility(ies) shall conform to the standards set out in the Denmark Zoning Ordinance section 5.16 B (2) and (C).
5. Additional vehicular demand on existing town roads or public easements occasioned by the operation of the extraction facility(ies) will not exceed the capacity of those roads, or cause the premature failure, aging or diminished utility of those roads, and use of town roads and public easements shall be subject to the provisions of Article VI.
6. To the extent the extraction facility(ies) will be served by pipes, pipelines, aqueducts or similar that such installations will be sited and constructed in a manner which will not interrupt the public's use of any existing roadway, interrupt the public's access to any public facility, great pond or similar; interrupt private access to private property; or pose the risk of damage to any property along or through which such installation traverses as a result of

any failure or malfunction which might cause ponding, erosion, run off or similar

7. The proposed extraction and activities incident to such extraction such as increased traffic (volume and type), parking, hours of operation, noise, glare from lights, or similar potential for nuisances are unlikely to cause a negative impact on adjacent properties, and the nearby vicinity as a whole.

Article VI: Impact Fees

The purpose of this section is to assure that any large scale water extraction activity subject to this ordinance bears a fair share of the costs of actual or anticipated capital expenditures for necessary or vital public facilities, improvements and infrastructure including, but not limited to, town roads, public easements, or public facilities deriving access from the same, and with respect to town roads and public easements to provide a mechanism for assessing and collecting a reasonable impact fee to ameliorate any overburdening of the capacity of such ways, their premature failure, accelerated need for maintenance or re-surfacing, aging or diminished utility to the public, together with associated safety devices, signage and similar

1. Establishment of Impact Fees

Impact fees for Large Scale Water Extraction requiring review and approval under this ordinance shall be imposed if the Board of Selectmen finds the proposed extraction and activities incidental thereto, specially including transport of extracted water from the extraction site, will result in the need for new, improved or expanded public facilities in order to accommodate the proposed withdrawal and activities incidental thereto, or will result in substantial or extraordinary increases in maintenance, repair, upgrading, or rebuilding or relocating of existing public facilities as a result of the proposed withdrawal and activities incidental thereto

The Board shall engage the services of appropriate technical professionals and consultants to assist it in determining the likely impact on public facilities and the portion of such impact(s) that are attributable to the proposed water extraction and activities incidental thereto.

The professional(s) and/or consultant(s) shall provide the Board with a written estimate of the services to be rendered and the anticipated costs thereof, and a copy shall be provided to the applicant. Those costs shall be deposited with the Town, in advance of the scheduling of any public hearing required under this ordinance as set forth in Article VII above.

2. Payment of Impact Fees

The applicant shall pay to the Town the impact fee(s) as determined under (1) above, prior to the issuance of any permit under this ordinance. The payment so made shall be specifically identified by the Board as to which public facilities, improvements or infrastructure it applies, and be promptly deposited into an appropriate impact fee fund, to be held as a separate account and to be disbursed solely for the purposes set forth herein.

3. Use of Impact Fees

Impact fees shall be used for the purpose of capital improvements, expansion, and substantial and extraordinary increases in maintenance, repair, upgrading rebuilding or relocating of existing public facilities and infrastructure, that are related directly to applicant's proposed water extraction activities, including, but not limited to, the following:

- a. any road systems, traffic devices and signage, for which the town bears responsibility in whole or in part, for the cost of repair, maintenance, upgrading, replacing, rebuilding, improvement or expansion.
- b. parks, recreational facilities and open space;
- c. solid waste disposal, recycling and transfer facilities;
- d. schools;
- e. public libraries;
- f. public safety facilities and equipment including fire, police and rescue;
- g. storm and flood control facilities;
- h. water and sewerage distribution or collection facilities and treatment facilities;
- i. or any other facilities or infrastructure the costs of which can be substantially attributed to the proposed water extraction and activities incidental thereto.

No funds shall be used for normal or routine maintenance as planned and scheduled based on historical use of such facilities or infrastructure as pre-existed the proposal for extraction or activities incidental thereto.

In the event bonds or similar debt instruments are issued for advanced provision of capital facilities for which impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar instruments.

4. Refund of Impact Fees

If a water extraction permit expires without commencement of actual extraction then the applicant shall be entitled to a refund, without interest, of any unexpended portion of the impact fees paid, provided the applicant submits a written request for such refund to the Board within thirty (30) days of the expiration of the permits this shall not apply to any expenditure of all or part of the impact fees made in good faith in reasonable expectation that extraction and activities incidental thereto would occur.

5. Exemptions

The impact fees referred to herein shall not apply to any water extraction activity not subject to the provisions of this ordinance as set out in Article IV (B) above

6. Review

The impact fees imposed under Section 1 above shall be reviewed, and be subject to modification, by the Board at least once every three (3) years

Article VII: Independent Expert Assistance

If the reviewing authority reasonably determines it requires independent expert assistance to assist it in its preliminary review of the application, or in evaluating the substance of the application at a public hearing, or in developing appropriate conditions of approval, or with respect of any ongoing monitoring regime, or impact on town infrastructure under Article VI it may engage the services of such expert assistance, to serve as the reviewing authority's own expert. To the extent the projected or estimated cost of such assistance exceeds the existing town appropriation for such assistance, if any, the applicant shall be required to pay to the Town, in advance of the scheduling of any public hearing, a sum equal to said projected or estimated cost, the failure of which payment shall excuse the reviewing authority from scheduling any public hearing until such payment is made in full. With respect to such costs and expenses anticipated to continue beyond any initial approval of extraction, such as services related to any monitoring regime, or assessment of infrastructure impacts, requirements for payment of such shall be inserted in any approval as an ongoing condition of that approval.

Article VIII: Concurrent Jurisdiction

As applicable, and subject to the provisions of Article IV(A) above, jurisdiction of the Board of Selectmen under this ordinance is concurrent with such jurisdiction as may be vested in the Denmark Planning Board and/or the Denmark Board of Appeals (under the Denmark Zoning Ordinance) and the Denmark Code Enforcement Office/Local Plumbing Inspector (under the Denmark Zoning

Ordinance/State Plumbing Code) and is not intended to divest them of existing jurisdiction as applicable, but rather establishes and imposes additional requirements and procedures as set forth herein

Article IX: Enforcement and Severability

This ordinance may be enforced by the municipal officers of the Town of Denmark or at their direction the Denmark Code Enforcement Officer under 30 A MRS 4452, the fines and penalties set forth therein to apply hereto. Should any section or provisions of this ordinance be declared by a court of competent jurisdiction to be invalid such decision shall not invalidate or affect the enforcement of any other section or provision of this ordinance.

As an additional means of enforcement, the Board of Selectmen may suspend or revoke any permit issued hereunder if it determines, after notice and hearing, that it was issued in error or upon incomplete or false information, or that applicant has failed to comply with any conditions of approval, and upon such suspension or revocation all water extraction addressed by said permit shall cease until a new approval or permit is obtained under this ordinance by the applicant.

Any appeal of any suspension or revocation of a permit shall be to the Board of Appeals, as an administrative appeal under Section 7.8 of the Denmark Zoning Ordinance

Article X: Effective Date

This ordinance and any amendments thereto shall become effective immediately upon adoption and enactment by vote of the legislative body of the town at a town meeting

Wind Energy Facility Ordinance for Denmark, Maine

- 1.0 Title
- 2.0 Authority
- 3.0 Purpose
- 4.0 Definitions
- 5.0 Applicability
- 6.0 Conflict and Severability
- 7.0 Effective Date
- 8.0 Classification of Wind Energy Facilities
- 9.0 Administration
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- 11.0 Meteorological Towers (MET Towers)
- 12.0 General Standards
- 13.0 Special Standards for Type 1A and 1B Wind Energy Facilities

Appendix A: Application Fees

- 1.0 Title

This Ordinance shall be known as the Wind Energy Facility Ordinance for Denmark, Maine.
- 2.0 Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of 30-A M.R.S. § 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, 30-A M.R.S. § 4312, *et seq.*
- 3.0 Purpose

The purpose of the Ordinance is to provide for the construction and operation of Wind Energy Facilities in Denmark, Maine, subject to reasonable conditions that will protect the public health, safety, and welfare.
- 4.0 Definitions

Applicant is the legal entity, including successors and assigns, that files an application under this Ordinance.

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.

CEO. Code Enforcement Officer of the Town of Denmark.

Generating Facilities means Wind Turbines and electrical lines, not including Generator Lead Lines immediately associated with the Wind Turbines.

Historic Area means a Historic Site administered by the Bureau of Parks and Recreation of the Maine Department of Conservation, with the exception of the Arnold Trail.

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: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of the Applicant's Wind Energy Facility permit application.

Meteorological Tower (MET Tower) means a Tower 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. MET Towers may also include wildlife related equipment such as ANABAT detectors, bird diverts and wildlife entanglement protectors.

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 within Denmark, Maine.

Occupied Building means a residence, school, hospital, house of worship, public library or other building that is occupied or in use as a primary residence or is customarily frequented by the public at the time when the permit application is submitted.

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 allowing the Applicant to demonstrate the requisite right, title and interest in such property.

Person means an individual, corporation, partnership, firm, organization or other legal entity.

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.

Protected Location means any location that is:

- 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Wind Energy Facility is submitted under this Ordinance;
- 2) within a State Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
- 3) a hotel, motel, campsite or duly licensed campground that the municipal authority responsible for review and approval of the pending application under 9.1 has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under section 13.1.3(b).

Residence means a building or structure, including manufactured housing, maintained for permanent or seasonal residential occupancy providing living, cooking and sleeping facilities and having permanent indoor or outdoor sanitary facilities, excluding recreational vehicles, tents and watercraft.

Scenic Resource means either a Scenic Resource of state or national significance, as defined in 35-A M.R.S § 3451(9) or a scenic resource of local significance located within the municipality and identified as such in a comprehensive plan, open space plan or scenic inventory adopted by the municipal legislative body.

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 M.R.S. § 480-B(10).

Substantial Start means that construction shall be considered to be substantially commenced when any work beyond excavation, including but not limited to, the pouring of a slab or footings, the installation of piles, the construction of columns, or the placement of a Tower on a foundation has begun.

Tower means the free-standing structure on which a wind measuring or energy conversion system is mounted.

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 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 10kW, 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 20kW per turbine or, multiple Wind Turbines with a combined maximum capacity of less than 100kW per site, with a Turbine Height less than 100 feet.

Wind Energy Facility, Type 2 means a Wind Energy Facility having a maximum generating capacity of 100 kW or greater and which does not require a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.* **Type 2 Wind energy Facilities are not allowable under this ordinance.**

Wind Energy Facility, Type 3 means a Wind Energy Facility having a generating capacity of 100kW or greater and which requires a state permit issued by the Department of Environmental Protection under the Site Location of Development Act, 38 M.R.S. §481, *et seq.* **Type 3 Wind energy Facilities are not allowable under this ordinance**

Wind Turbine means a system for the conversion of wind energy into electricity which is comprised of a Tower, generator, Nacelle, rotor and transformer.

5.0 Applicability

- 5.1 This Ordinance applies to any Wind Energy Facility proposed for construction in Denmark, Maine after the effective date of this Ordinance. This Ordinance does not apply to Associated Facilities unless the Generating Facilities are located within Denmark, Maine, in which case this Ordinance applies to both the Generating Facilities and the Associated Facilities.
- 5.1 A Wind Energy Facility that is the subject of an application determined to be complete by the Planning Board prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modifications after the effective date of the Ordinance shall be subject to the permitting requirements of Section 9.2.

6.0 Conflict and Severability

- 6.1 If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Denmark, Maine ordinance, the provision of this Ordinance shall apply.
- 6.2 The invalidity of any part of this Ordinance shall not invalidate any other part of this ordinance.

7.0 Effective Date

This Ordinance becomes effective on **January 1, 2017.**

8.0 Classification of Wind Energy Facilities

All Wind Energy Facilities shall be classified in accordance with Table 1 below:

**Table 1: Classification of Wind Energy Facilities and
Corresponding Local Review and Approval Authority**

Facility Type	Aggregate Capacity	Turbine Height	Max. # of Turbines	DEP Site Location Permit Required	Local Review and Approval
1A	<10kW	≤ 80'	1	No	Code Enforcement Officer
1B	<20kW per turbine <100 kW per site	< 100'	NA	No	Planning Board
2	≥100 kW	NA	NA	Not Allowed	Not Allowed
3	≥ 100 kW	NA	NA	Not Allowed	Not Allowed

9.0 Administration

9.1 Review and Approval Authority

1. The Code Enforcement Officer is authorized to review all applications for Type 1A Wind Energy Facilities and MET Towers pursuant to section 11.0, and may approve, deny or approve such applications with conditions in accordance with the standards of the Ordinance.
2. The Planning Board is authorized to review all applications for Type 1B, Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with this Ordinance.
3. Type 2 and Type 3 Wind Energy Facilities are not allowable within the boundaries of the Town of Denmark.

9.2 Permit Required

1. No Wind Energy Facility shall be constructed or located within Denmark, Maine 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 or that increases the Turbine Height or the level of sound emissions of any Wind Turbine shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

9.3 Permit Applications

1. Application components. A Wind Energy Facility permit application shall consist of the application form, application fee, and supporting documents, as described below:
 - a. Application Forms. The municipality shall provide the application form which shall be signed by: 1) a Person with right, title and interest in the subject property or; 2) a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and 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 standards of this ordinance and all approval and permit conditions, if any.
 - b. Application Fees. Application fees shall be assessed and paid upon submission of the application in accordance with Appendix A of this Ordinance.
 - c. Supporting Documents. The application shall include all additional documents necessary to satisfy the applicable submission requirements under section 10 of this Ordinance.
2. Application Submission. The Applicant shall submit its application for a Wind Energy Facility permit to the Code Enforcement Officer who shall note on the application the date on which it was received.
3. Changes to a Pending Application
 - a. The Applicant shall promptly notify the municipal entity responsible for review and approval of a pending application under section 9.1 of any changes the Applicant proposes to make to information contained in the application.
 - b. If changes are proposed to a pending application after a public hearing has been held, the Planning Board may consider those changes and continue with the review and approval process without a renewed public hearing if it determines that the changes do not materially alter the application. If the Planning Board determines that the proposed changes do materially alter the application it shall schedule and conduct another public hearing within 30 days of that determination. In making its determination, the Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

9.4 Permit Application Procedures

1. Type 1A Wind Energy Facility Application
 - a. Within 10 days after receiving an application, the Code Enforcement Officer shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Code Enforcement Officer may waive any submission requirement if the Code Enforcement Officer issues a written finding

that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.

- b. Within 30 days after determining the application to be complete, the Code Enforcement Officer shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making the decision, the Code Enforcement Officer shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in sections 12 and 13.
- c. With the agreement of the applicant, the Code Enforcement Officer may extend the procedural time frames of this section.

2. Type 1B, Wind Energy Facility Applications

- a. The Applicant is strongly encouraged to meet with the Code Enforcement Officer before submitting an application. At this pre-application meeting, the Code Enforcement Officer will explain the Ordinance's provisions, application forms, and submission requirements. The Applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot area.
- b. An application shall be eligible for consideration at a regularly-scheduled meeting of the Planning Board only if the applicant submits it at least 14 days prior to the meeting.
- c. Within 35 days after receipt of the application by the Code Enforcement Officer, the Planning Board shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Planning Board may waive any submission requirement if it issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.
- d. The Planning Board shall hold a public hearing for a Type 1B Wind Energy Facility application. The Planning Board shall hold that hearing within 35 days after determining that application is complete.
- e. Within 60 days after determining that an application for a Type 1B Wind Energy Facility is complete the Planning Board shall issue a written order: 1) denying approval of the proposed Wind Energy Facility, 2) granting approval of the proposed Wind Energy Facility or, 3) granting approval of the proposed Wind Energy Facility with conditions. In making its decision, the Planning Board shall make findings on whether the proposed Wind Energy Facility meets the applicable criteria described in sections 12, 13, and 14.
- f. With the agreement of the applicant, the Planning Board may extend the procedural time frames of this section.

Table 2:
Procedural Time Frames

Facility Type	Application Completeness	Public Hearing	Final Decision
1A	≤10 days ¹	NA	<u><30 days</u> ²
1B	≤35 days ¹	<u><35 days</u> ²	≤60 days ²

1 Days after receipt of the application by the Code Enforcement Officer

2 Days after the application is determined to be complete

9.5 Notice of Meetings

Ten days prior to any meeting at which an application for a Type 1B Wind Energy Facility is to be considered, the Planning Board shall send 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. The notice shall state the date, time and place of the meeting and the proposed location and the classification of the proposed Wind Energy Facility.

9.6 Public Hearings

The Planning Board shall have notice of the date, time, and place of any public hearing and the proposed location and the classification of the proposed Wind Energy Facility:

1. Published at least once in a newspaper having general circulation within the municipality. The date of the first publication shall be at least 10 days before the hearing.
2. Mailed by first class mail to the Applicant and to owners of property within **1000** feet of the property on which the Wind Energy Facility is proposed to be located, at least 10 days before the public hearing. The Planning Board shall maintain a list of property owners to whom notice is mailed in the application file. Failure of any of these property owners to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

9.7 Professional Services

In reviewing the application for compliance with this Ordinance, the Planning Board may retain professional services, including but not limited to those of an attorney or consultant, to verify information presented by the Applicant. The attorney or consultant shall first estimate the reasonable cost of such review and the Applicant shall deposit, with the municipality, the full estimated cost, which the municipality shall place in an escrow account. The municipality shall pay the attorney or consultant from the escrow account and reimburse the Applicant if funds remain after payment.

9.8 Expiration of Permits

Permits shall expire: 1) two years after the date of approval unless a substantial start on construction has occurred and; 2) three years after the date of approval unless construction of the Wind Energy Facility has been completed.

9.9 Access

The Code Enforcement Officer 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 directly related to the design, construction and operation of the facility.

9.10 Enforcement

1. It shall be unlawful for any Person to violate or fail to comply with or take any action that is contrary to the terms of the Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or to cause another to violate or fail to comply or take any action which is contrary to the terms of the Ordinance or any permit under the Ordinance.
2. If the Code Enforcement Officer or other Person charged with enforcement of municipal laws determines that a violation of the Ordinance or the permit has occurred, the Code Enforcement Officer shall provide written notice to any Person alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Code Enforcement Officer and the alleged violator shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation and, with the consent of the alleged violator, may be extended.
3. If, after thirty (30) days from the date of notice of violation or further period as agreed to by the alleged violator, the Code Enforcement Officer determines, in the officer's reasonable discretion, that the parties have not resolved the alleged violation, the Code Enforcement Officer may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit, as outlined in the Zoning Ordinance of the Town of Denmark, Article 7.6 and 7.7

9.11 Appeals

Any Person aggrieved by a decision of the Code Enforcement Officer or the Planning Board under this Ordinance may appeal the decision to the Board of Appeals, as provided by Zoning Ordinance of the Town of Denmark, Article 7.8.

10.0 Application Submission Requirements

10.1 General Submission Requirements

1. A completed application form including:
 - a. The Applicant and Participating Landowner(s) name(s) and contact information.
 - b. The address, tax map number, zone and owner(s) of the proposed facility site and any contiguous parcels owned by Participating Landowners.
 - c. The tax map number, zone, current use, owner(s) and addresses of owner(s) of parcels that abut the proposed facility site or abut parcels of Participating Landowners that are contiguous with the proposed facility site (Not required for Type 1A applications)
 - d. An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Wind Energy Facility, if approved and built, shall be constructed and operated in accordance with the standards of this ordinance and all conditions of approval, if any
2. Receipt showing payment of application fee in accordance with Appendix A.
3. A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the proposed facility site.
4. Location map 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 Scenic Resource or Historic Site within 2500 feet of the proposed development.
5. Description of the proposed Wind Energy Facility that includes the number and aggregate generating capacity of all Wind Turbines, the Turbine Height and 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) and a description of Associated Facilities.
6. Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within 1500 feet of any Wind Turbine: 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 or cleared of vegetation.
 - a. In addition to the information in 6, above, site plans for Type 1B Wind Energy Facilities shall 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.
7. For Type 1B Wind Energy Facilities, written evidence that the Environmental Coordinator of the Maine Department of Inland Fisheries and Wildlife (MDIFW) and that 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.

8. Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.
9. Description of emergency and normal shutdown procedures.
10. Photographs of existing conditions at the site.
11. An application for a Type 1A or 1B Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system: a) prepared by the Wind Turbine or Tower manufacturer, b) prepared in accordance with the manufacturer's specifications or, c) prepared and stamped by a Maine-licensed professional engineer.
12. An application for a Type 1A or Type 1B Wind Energy Facility shall include:
 - a. a written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under section 13.1.3 and acknowledges the Applicant's obligation to take remedial action in accordance with section 13.1.6 if the Code Enforcement Officer determines those standards are not being met or;
 - b. a written request for review under section 14.1 along with information required under Appendix B, subsection B (Submissions).
13. An Application for Type 1B, Wind Energy Facility shall include the following:

Sight Line Representations of each Wind Turbine from the nearest Occupied Buildings. Each Site Line Representation shall 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, shall be depicted on the drawing along with the sight line as altered by the screening. A current four-inch by six-inch color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Site Line Representations.

11.0 Meteorological Towers (MET Towers)

Applications for Meteorological (MET) Towers shall be subject to the submission and review standards for a Type 1A or Type 1B Wind Energy Facility, as applicable, except that a height limitation of 100 feet shall apply. A permit for a MET Tower shall be valid for 2 years and 2 months from the date of issuance. The Code Enforcement Officer may grant one or more one-year extensions of this permit period. Within 30 days following removal of a MET Tower, the Applicant shall restore the site to its original condition to the extent practicable. The provisions of this section do not apply to permanent MET Towers included as Associated Facilities in approved Wind Energy Facility applications.

12.0 General Standards

12.1 Safety Setbacks

Wind Turbines shall be set back a horizontal distance equivalent to 300% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed

Generating Facility except that the entity responsible for review and approval of the application may allow a reduced setback if the Applicant submits, in writing: 1) a waiver of the property boundary setback signed by the pertinent abutting landowner or; 2) evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise and experience with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate.

12.2 Natural Resource Protection

A Wind Energy Facility shall 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 municipal entity responsible for review and approval of the permit application under section 9.1 shall consider pertinent application materials and the written comments and/or recommendations, if any, of the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and the Maine Natural Areas Program (MNAP).

12.3 Building Permit

All components of the Wind Energy Facility shall conform to relevant and applicable local and state building Code.

12.4 Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an automatic braking, governing or feathering system to prevent uncontrolled rotation and a manual service disconnect within reach of the ground.

12.5 Electrical Components and Interconnections

All electrical components of the Wind Energy Facility shall conform to relevant and applicable local, state, and national Code.

12.6 Access

All ground-mounted electrical and control equipment and all access doors to a Wind Turbine shall be labeled and secured to prevent unauthorized access. A Wind Tower shall not be climbable up to a minimum of fifteen (15) feet above ground surface.

12.7 Blade Clearance

The minimum distance between the ground and all blades of a Wind Turbine shall be 25 feet as measured at the lowest arc of the blades.

12.8 Signal Interference

The Applicant shall make reasonable efforts to avoid and mitigate to the extent practicable any disruption or loss of radio, telephone, television, or similar signals caused by the Wind Energy Facility.

12.9 Structure Type

With the exception of Meteorological (MET) Towers, Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application under section 9.1, that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

12.10 Erosion Control

Erosion of soil and sedimentation shall be minimized by employing “best management practices” in the *“Maine Erosion Control Handbook for Construction: Best Management Practices”*, March 2003.

12.11 Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

12.12 Visual Appearance

1. A Wind Turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Wind Energy Facility.
2. A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Wind Energy Facility.
3. A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

12.13 Visibility of Wind Turbine

The following requirements apply, to the extent practicable, to Type 1B Wind Energy Facilities:

1. To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Buildings and Scenic Resources.
2. When existing features do not screen views of a Wind Turbine from Residences and Scenic Resources, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. 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.

13.0 Special Standards for Type 1A and Type 1B Wind Energy Facilities

13.1 Sound Levels

1. A new wind energy facility shall not exceed 35dBA for any continuous five (5) minute period as measured anywhere beyond the property boundaries of the wind energy facility’s owner/ operator or on the adjoining properties, including adjoining property lines and habitable structures, except during

short term (12 hours or less) weather events, even if mitigation waivers are in effect for these adjoining properties. This section is not subject to waiver.

2. A new wind energy facility shall emit no additional dBC (low level) sounds beyond the property boundaries of the wind energy facility's owner/ operator at any time.

3. The Applicant shall operate the proposed Wind Energy Facility in conformance with the sound level limits of section 13.1. If, based on post-installation measurements taken in accordance with section 13.1.1, the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with the Denmark, Maine Wind Energy Facility Ordinance and in consultation with the Code Enforcement Officer, take remedial action deemed necessary by the Code Enforcement Officer to ensure compliance with those limits. Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:
 - 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); and,
 - d. removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines that there is no practicable alternative.

13.2 Discontinued Use

1. A Type 1A or Type 1B Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the Applicant within 120 days of receipt of notice from the Code Enforcement Officer, unless the Applicant provides information that the Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Wind Energy Facility is not removed within this time period, the municipality may remove the turbine 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 municipality for removal of a Type 1B Wind Energy Facility, the Applicant may apply to the Planning Board for release of the surety when the Wind Energy Facility has been removed to the satisfaction of the Code Enforcement Officer.

APPENDIX A

Application Fees

Application fee for a Type 1A Wind Turbine is \$100.00

Application fee for a Type 1B Wind Turbine is \$150.00

Application for a Meteorological Tower (MET Tower) is \$150.00

**ZONING
ORDINANCE**

TOWN OF

DENMARK, MAINE

ENACTED
MARCH 8, 1999

AMENDED
MARCH 10, 2001
APRIL 4, 2005
MARCH 11, 2006
JUNE 7, 2008
JUNE 6, 2009
JUNE 4, 2011
JUNE 2, 2012
JUNE 1, 2013
JUNE 4, 2016

PRICE: \$8.00

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TOWN OF
DENMARK, MAINE
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APPENDIX A

BUFFER STRIP REQUIREMENTS FOR DEVELOPMENTS
QUALIFYING FOR SIMPLIFIED PHOSPHORUS REVIEW

ZONING MAPS

ARTICLE 1 - GENERAL

1.1 Short Title.

This Ordinance shall be known and may be cited as the “Zoning Ordinance of the Municipality of Denmark, Maine,” and will be referred to herein as “this Ordinance.”

1.2 Purpose.

To further the maintenance of safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses, conserve shore cover, visual as well as actual points of access to waters and natural beauty, to protect buildings and lands from flooding and accelerated erosion, to protect archaeological and historic resources, and to anticipate and respond to the impacts of development in shoreland areas.

This Ordinance does not grant any property rights; it does not authorize any person to trespass, infringe upon, or injure the property of another; it does not excuse any person of the necessity of complying with other applicable laws and regulations.

1.3 Basic Requirements.

All buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and uses of premises in the Municipality of Denmark shall be in conformity with the provisions of this Ordinance. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the District in which such building, structure, land, or water area is located.

1.4 Non-Conformance.

A. General.

1. Continuance, Enlargement, Reconstruction.

Any non-conforming use or non-conforming structure may continue to exist but may not be extended, reconstructed, enlarged, or structurally altered except as specified below.

2. Transfer of Ownership.

Non-conforming structures, non-conforming lots of record, and non-conforming 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.

3. Restoration or Replacement.

This ordinance allows the normal upkeep and maintenance of non-conforming uses and structures; repairs, renovations, or modernizations which do not involve expansion of the non-conforming use or structure and the value of which is less than 25% of the market value of the structure before the repair is started; and such other changes in a non-conforming use or structure as Federal, State, or Local building and safety codes may require.

B. Non-Conforming Use.

1. 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, even if the owner has not intended to abandon the use.

2. A Structure Non-Conforming As To Use.

Except for single family dwellings, a building or structure, non-conforming as to use, shall not be enlarged unless the non-conforming use is terminated. Except in a resource protection district, single family dwellings, which are non-conforming uses, may be enlarged as long as the dimensional requirements of the district in which they are located are met. A non-conforming use or part of a building or structure shall not be extended throughout other parts of the building or structure unless those parts of the building or structure were manifestly arranged or designed for such use prior to the adoption of this ordinance, or of any amendment making such use non-conforming.

3. Change of Use.

An existing non-conforming use may be changed to another non-conforming use provided that the proposed use is equally or more appropriate to the district than the existing non-conforming use, and the impact on the subject adjacent properties and resources is less adverse than the impact of the former use as determined by the Planning Board. The case shall be heard as an administrative appeal. The determination of appropriateness shall require written findings on the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, flood plain management, archaeological and historic resources, and the probable changes in traffic (volume and type), parking, noise, potential for litter, wastes or by-products, fumes, odors, or other nuisances likely to result from such change of use. The performance standards in Article V of this ordinance shall apply to such requests to establish new non-conforming uses.

4. Use of Land.

A non-conforming use of land may not be extended into any part of the remainder of a lot of land. A non-conforming use of land, which is accessory to a non-conforming use of a building, shall be discontinued at the same time the non-conforming use of the building is discontinued.

In the case of earth removal operations, the removal of earth may not be extended as a non-conforming use beyond the required set-back lines of the specific parcel upon which such operations were in progress when such use became non-conforming, as required by the performance standards for extractive industries. Adjacent parcels in the same or different ownership shall not be eligible for exemption under the non-conforming use provisions unless earth removal operations were in progress on these parcels before these provisions were enacted.

The provision of required off-street parking for an existing non-conforming use shall not be considered the expansion of the use.

C. Non-Conforming Structures. (Pertaining to dimensional requirements. Applications regarding non-conforming use shall be reviewed under the provisions above.)

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 CEO 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.¹

3. Discontinuance.

Discontinuance of the use of a legally existing non-conforming structure shall not constitute abandonment of the structure. Conforming use of the structure may be commenced at any time.

4. Lack of Required Parking or Loading Space.

A building or structure which is non-conforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking and/or loading space into conformance with the requirements of this ordinance for both the addition or alteration and for the original building or structure, or a variance is obtained.

5. Relocation: A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation.

6. Reconstruction or Replacement: Any non-conforming structure which is located less than the required setback from the normal high-water line of a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within one year of the date of said damage, destruction, or removal, and provided that such reconstruction or

¹ Amended June 1, 2013 Town Meeting

replacement is in compliance with the water setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

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

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent the Planning Board shall consider in addition to the criteria in paragraph 1.4.C.4 above, the physical condition and type of foundation present, if any.

D. Non-Conforming Lots of Record.

1. Vacant Lots.

A vacant non-conforming lot may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this ordinance except lot size and frontage can be met. On a non-conforming lot of record, which has less than 75 percent of the required lot width, the required setback from lot lines and setback from center of road, or right of way may not be reduced by 25 percent. Variance of setback or other requirements not involving area or width shall be obtained only by action of the Board of Appeals.

2. Built Lots.

A non-conforming lot that was built upon prior to the enactment or subsequent amendment of this ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) cannot meet the dimensional requirements of this ordinance a variance shall be obtained from the Board of Appeals.

3. Contiguous Built Lots.

If two or more contiguous lots or parcels are in 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 principle use exists on each lot, the non-conforming lots may be conveyed separately or together, providing the State Minimum Lot Size Law and Subsurface Wastewater Disposal Rules are complied with. If two or more principal uses existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

4. 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 two or more of the lots are vacant or contain only an accessory structure, except in the shoreland zone, where this requirement shall apply if one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to

the extent necessary to meet the dimensional standards, except where rights have vested, or the lots have frontage on parallel streets and state laws are complied with.

E. 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 arise when substantial construction of structures and development infrastructure improvements for town approved subdivisions began prior to or within 12 months of the adoption of this ordinance, or in the case of pending applications, when the review process on an 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.

1.5 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 this Ordinance.

1.6 Conflict With Other Ordinances.

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, 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.

1.7 Amendments.

A. Initiation of amendment.

An amendment to this Ordinance may be initiated by:

1. the Planning Board provided a majority of the board has so voted;
2. request of the Municipal Officers to the Planning Board; or
3. written petition of a number of voters equal to at least 10% of the number of votes cast in the Municipality at the last gubernatorial election.

B. Adoption of amendment.

An amendment to this Ordinance may be adopted by a majority vote of the Governing Body who are present and voting. (The Governing Body consists of the voters of the town.)

C. The Planning Board shall hold a public hearing on the proposed amendment at least 30 days prior to the meeting of the Governing Body. Notice of the hearing shall be posted at least 7 days in advance in a newspaper of general circulation in the area.

D. Copies of amendments to any provision which affects the shoreland zone shall be attested and signed by the Municipal Clerk, shall be submitted to the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of the Department's 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 Department.

1.8 Repetitive Petitions.

No proposed change in this Ordinance which has been unfavorably acted upon by the Governing Body shall be considered on its merits by the Governing Body within one (1) year after the date of such unfavorable action unless adoption of the proposed change is recommended by unanimous vote of the Planning Board.

1.9 Effective Date.

Except as specified in Section 1.7.D above, the effective date of this Ordinance is the date of enactment.

ARTICLE 2 - ESTABLISHMENT OF DISTRICTS

2.1 Zoning Districts.

To implement the provisions of this Ordinance, the Municipality of Denmark is hereby divided into the following Districts:

A. Resource Protection. All areas within the 100 year floodplain are Resource Protection District. The Resource Protection District also includes areas around wetlands which have been rated as high or moderate value habitat for waterfowl by the Department of Inland fisheries and Wildlife.

1. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.
2. To control the use of shoreland and other areas to provide maximum protection to the land and water resources so that:
 - a. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;
 - b. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and
 - c. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.
3. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation and the exact nature of the effects of shoreland development on that degradation process.
4. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication.
5. To protect the most vulnerable shoreland areas of all waterbodies and other areas in which land uses would adversely affect water quality, productive habitat, biological systems, or scenic and natural values, and discourage development in unsafe or unhealthful areas. Such areas include, but are not limited to:
 - a. Wetlands, swamps, marshes and bogs.
 - b. Significant wildlife habitats.

B. Shoreland District.

1. To further the maintenance of safe and healthful conditions and the general welfare; prevent and control water pollution; protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; control building sites, placement of structures and land uses; and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty.

2. To control the use of shoreland and other areas to provide maximum protection to the land and water resources so that:
 - a. The processes of eutrophication, sedimentation, and pollution, leading to the ultimate degradation or destruction of the water body, will be eliminated or delayed as long as possible;
 - b. The process of accelerated nutrient enrichment of waterbodies, which almost always accompanies shoreland development, will be kept to a minimum; and
 - c. Waterbodies, particularly those with public access, will be maintained in a condition fit for the present and future use and enjoyment of the public.
3. To provide minimum standards, as a stopgap measure, until such time as research establishes precisely the susceptibility of various waterbodies to degradation and the exact nature of the effects of shoreland development on that degradation process.
4. To enhance the enjoyment and use of waterbodies through the protection of fish and aquatic life from destruction that results from advanced stages of man-induced eutrophication.
5. To minimize expenditures of public moneys for flood control projects
6. To minimize rescue and relief efforts undertaken at the expense of the general public.
7. To minimize flood damage to public facilities such as water mains, sewer lines, streets and bridges.
8. To protect the storage capacity of flood plains and assure retention of sufficient floodway area to convey flood flows which reasonably can be expected to occur.
9. To encourage open space uses such as agriculture and recreation.
10. To control building sites.

C. Village District

To provide an opportunity for compact development in a village setting but protect existing residences in the more densely developed parts of town from the adverse impacts frequently associated with various types of commercial development.

D. Rural District.

To allow a maximum diversity of uses, while protecting the public health and safety, environmental quality and economic well-being of the Municipality, by imposing minimum controls on those uses which by virtue of their external effects (waste discharge, noise, glare, fumes, smoke, dust, odors, or auto, truck, or rail traffic) could otherwise create nuisances or unsafe or unhealthy conditions.

E. Aquifer Protection District.

To protect those ground water resources which are most vulnerable to contamination from certain adverse land use activities and thereby to preserve the quantity and quality of this resource for present and future use. This protection shall be afforded by decreased densities and restrictions on land uses which can be expected to pose increased risks to ground water quality.

2.2 Location of Districts.

Said Districts are located and bounded as shown on the Official Zoning Map, entitled “Zoning Map of Denmark, Maine” dated March 11, 2006, and on file in the office of the Municipal Clerk. The Official Map shall be signed by the Municipal Clerk and the Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this map may be seen in the office of the Municipal Officers.

A copy of said map should be consulted by any person or party intending to apply for a building permit, land use authorization, subdivision approval, zoning variance, or other similar permit or relief under this ordinance prior to filing for same. Use of, reference to, or reliance upon any previous version of the Town zoning maps shall be at applicant’s sole risk.

2.3 Uncertainty of Boundary Location.

Where uncertainty exists with respect to the boundaries of the various Districts as shown on the Zoning Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;
- B. Boundaries indicated as approximately following well established lot lines shall be construed to follow such lot lines;
- C. Boundaries indicated as approximately following municipal limits shall be construed to follow such municipal limits;
- D. Boundaries indicated as following railroad lines shall be construed to follow such lines;
- E. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;
- F. Boundaries indicated as being parallel to or extensions of features indicated in sub-sections A-E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map. Boundaries which are parallel to the upland edge of a wetland shall be the distance indicated from the upland edge of a wetland regardless of the location to the boundary depicted on the map and
- G. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections A-F above, the Board of Appeals shall interpret the District boundaries.

2.4 Division of Lots by District Boundaries.

- A. Where a Zoning District boundary line other than the Resource Protection and Shoreland Districts divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may be extended not more than 50 feet into the more restricted portion of the lot, subject to the provisions of 2.4.B below.
- B. Extension of use shall be considered a Conditional Use, subject to the approval of the Planning Board and in accordance with the criteria set forth in paragraph 7.8.C.4, Factors Applicable to Conditional Uses.

2.5 Where District Boundaries may Overlap.

If the district boundaries of the Aquifer Protection and Shoreland districts should overlap the most restrictive provisions of either district shall control in those areas which may be in both districts. In order to be permitted, a use must be listed as permitted or conditional in both districts.

ARTICLE 3 - CONSTRUCTION OF LANGUAGE AND DEFINITIONS

3.1 Construction of Language.

In this Ordinance, certain terms or words shall be interpreted as follows:

The word “person” includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and plural includes the singular; the word “shall” is mandatory, and word “may” is permissive; the words “used” or “occupies” include the words “intended,” “designed,” or “arranged to be used or occupied,” the word “building” includes the word “structure,” and the word “dwelling” includes the word “residence”, the word “lot” includes the words “plot” or “parcel.” In the case of any difference of meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

Terms not defined shall have the customary dictionary meaning.

3.2 Definitions.

In this Ordinance the following terms shall have the following meaning unless a contrary meaning is required by the context or is specifically prescribed:

Abandoned Public Road: any road that was once public and now deemed abandoned under MRSA Title 23, Section 3028 and on file in the Town of Denmark records as being abandoned.

Accessory Use or Structure: a use or structure of a nature customarily incidental and subordinate to those of 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 of 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.

Alteration: any change, addition, or modification in construction, or any change in the structural members of building, such as bearing walls, columns, beams or girders.

Animal Husbandry: The keeping of any domestic animals other than customary household pets.

- Antenna:** Any exterior apparatus or collection of apparatus designed for telephone, radio, television, personal communications service, pager network, or any other communications through the sending or receiving of electromagnetic waves of any bandwidth, except for those used only for the reception of television or radio signals.
- Auto Repair Garage:** A place where, with or without the attendant sale of engine fuels, the following services may be carried out: general repair, engine rebuilding, rebuilding or reconditioning of motor vehicles; collision service such as body, frame, or fender straightening and repair; overall painting and under-coating of automobiles.
- Auto Service Station:** a place where gasoline, or any other automobile engine fuel (stored only in underground tanks), kerosene, or motor oil and lubricants or grease (for operation of motor vehicles) are retailed directly to the public on the premises; including the sale of minor accessories and servicing and minor repair of automobiles, not including storage of unlicensed vehicles and not including body, frame, or fender straightening and repair.
- Automobile Graveyard:** a yard, field, drive or other area used as a place of storage for 1 or more unserviceable, discarded, worn-out or junked motor vehicles.
- Basement:** a portion of the building partly underground but having less than half its clear height below the average grade of the adjoining ground.
- Bed & Breakfast/Inn:** An establishment which includes a dwelling in which lodging and meals are offered to the general public for compensation, offering no more than twelve rooms for lodging purposes.
- Boathouse:** a non-residential structure designed for the purpose of protecting or storing boats for non-commercial purposes.
- 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.
- Buffer Area:** an area of undisturbed soil, ground cover, shrubs and/or trees abutting a water body or stream, that may prevent nutrient pollution.
- Building:** a structure with walls and roof designed for the support, shelter or enclosure of persons, animals, goods or property of any kind.
- Camp:** An establishment, licensed by the Maine Department of Human Services, Division of Health Engineering, which provides recreational, spiritual, or educational programs and instruction for participants as well as meals and/or lodging.
- Campground:** any premises established for overnight use for the purpose of temporary camping, and for which a fee is charged.
- Cellar:** a portion of the building partly underground, but having half or more of its clear height below the average grade of the adjoining ground.
- Channel:** a natural or artificial watercourse with definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.
- Club:** Any association of persons organized for social, religious, benevolent, or academic purposes, including fraternities and sororities, whose facilities are open to members and guests.

Code Enforcement Officer: a person appointed by the Municipal Officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and like where applicable.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including but not limited to: racquet clubs, health facility and amusement parks, but not including amusement centers.

Communication tower: Any structure, whether freestanding or in association with a building or other permanent structure, that is designed and constructed primarily for the purpose of supporting one or more antenna. The term includes radio or television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and similar structures.

Conditional Use: a use permitted only after review and approval by the Planning Board. A Conditional Use is a use that would not be appropriate without restriction but which, if controlled under the provisions of the Ordinance, would promote the purposes of this Ordinance. Such uses may be permitted if specific provision of such Conditional Use is made in this Ordinance.

Conditional Use Permit: a permit authorized by the Planning Board for a Conditional Use. A Conditional Use permit may be issued only after the applicant has followed the procedures of this Ordinance.

Conforming Use: a use of buildings, structures or land which complies with all applicable provisions of this Ordinance.

Constructed: includes 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.

Contiguous lots: A lot shall be considered to be contiguous with another lot if the lots adjoin at any point or line, or are separated at any point by a body of water less than forty feet wide.

Day Care Center: An establishment, including a private residence, where three or more children under the age of six are cared for in return for compensation.

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

District: a specified portion of the municipality, delineated on the Official Zoning Map, within which certain regulations and requirements for various combinations thereof apply under the provisions of this Ordinance.

Driveway: a vehicular access-way less than five hundred (500) feet in length serving two lots or less.

Dwelling: a fixed structure, containing one or more dwelling units.

Dwelling: Multi-Family: A single dwelling, containing three or more dwelling units.

Dwelling: Two Family: A single dwelling, containing two dwelling units.

Dwelling Unit: a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include mobile homes but shall not include trailers or recreational vehicles.

Earth: topsoil, sand, gravel, clay, peat, rock, or other minerals.

Essential Services: the construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

Eutrophication: the process of nutrient enrichment of waterbodies.

Excavation: any removal of earth or earth material from its original position.

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

Expansion of use: the addition of weeks or months to a use's operating season; additional hours of operation; or the use of more floor area or ground area devoted to a particular use.

Family: on or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, or hotel. Such unit shall not exceed five persons not related by blood or marriage.

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

Flea Market: The sale of used merchandise customarily involving tables or space leased or rented to vendors.

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

Flood Plain: the lands adjacent to a waterbody which have been or may be covered by the regional flood.

Floodway: the channel of a stream and those portions of the flood plain adjoining the channel that are required to carry and discharge the flood water or flood flows of any river or stream.

Flood Proofing: a combination of structural provisions, changes, or adjustments to properties subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings.

Regional Flood: the maximum known flood of a waterbody; either the 100 year frequency flood, where calculated, or the flood of record.

Floor Area, Gross: the sum, in square feet, of the floor areas of all roofed portions of a building, as measured from the interior faces of the exterior walls, plus the horizontal area of any unenclosed portions of a structure such as porches and decks.

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

Forested Wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

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

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

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

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

Frontage, Shore: the horizontal distance, measured in a straight line, between the intersection of the side lot lines with the shoreline at normal high water elevation.

Frontage, Street: the horizontal distance between the intersections of the side lot lines with the front lot line.

Grade: in relation to buildings, the average of the finished ground level at the center of each wall of a building.

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

Height: The vertical distance between the highest point of a structure and the average grade of the ground adjacent to the structure.

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

Home Occupation: an occupation or profession which is: customarily carried on in a dwelling unit or structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; and clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Impermeable surface: A layer of surface of material that will not permit the absorption or penetration of water in a specific period of time as defined in the Maine State Plumbing Code.

Individual private campsite: an area of land which is not associated with a campground, but which is developed for repeated camping by only one group not to exceed ten (10) individuals and which involves site improvements which may include but not be limited to gravel pads, parking areas, fire places, or tent platforms.

Intermittent stream: a watercourse which is comprised of flowing water three months out of the calendar year.

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

1. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
2. Discarded, scrap and junked lumber;
3. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber or plastic debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
4. Garbage dumps, waste dumps and sanitary fills.

Kennel: Any place, building, tract of land, abode, enclosure, or vehicle where six or more dogs or six or more cats, owned singly or jointly are kept for any purpose, including but not limited to breeding, hunting, show, field trials or exhibition, or where one or more dog or other pet is kept for their owners in return for a fee. This definition shall not apply to dogs or cats under the age of six months.

Lagoon: an artificial enlargement of a waterbody, primarily by means of dredging and excavation.

Lot: a parcel of land in single ownership, described on a deed, plot, or similar legal document.

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, within the Shoreland Zone only, areas beneath roads serving more than two lots.

Lot, Corner: a lot with at least two contiguous sides abutting upon a street.

Lot, Coverage: the percentage of the lot covered by all buildings.

Lot, Interior: any lot other than a corner lot.

Lot Lines: the lines bounding a lot as defined below:

Front Lot Line: on an interior lot, the line separating the lot from the street. On a corner or through lot, the line separating the lot from either street.

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.

Side Lot Line: any lot line other than the front lot line or rear lot line.

Lot Width: the horizontal distance between the side lot lines, measured at the setback 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 or in common use by City or County Officials.

Lot, Shorefront: any lot abutting a waterbody.

Lot, Through: any interior lot having frontages on two more or less parallel streets, or between a street and waterbody, or between two waterbodies, as distinguished from a corner lot. All sides of through lots adjacent to streets and waterbodies shall be considered frontage, and front yards shall be provided as required.

Manufactured Housing Unit: Housing units that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, transportable in one or more sections, that in the traveling mode are 14 body feet or more in

width and are 750 or more square feet, and that 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, and electrical systems contained in the unit. Such units are commonly referred to as mobile homes.

Manufacturing: The assembling, fabrication, finishing, manufacturing, packaging, distribution or processing of goods, or the extraction of minerals.

Marina: a business establishment having frontage on navigable water and, as its principal use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, boat and tackle shops and marine fuel service facilities.

Market Value: the estimated price a property will bring in the open market and under prevailing market conditions in a sale between a willing seller and a willing buyer, both conversant with the property and with prevailing general price levels.

Mechanized Recreation: Recreation activities which require the use of motors or engines for the operation of equipment or participation in the activity.

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 two hundred fifty (250) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed away from the extraction site.

Mobile Home Park: A parcel of land under unified ownership designed and/or used to accommodate three or more manufactured housing units.

Modular Housing Unit: Housing units that the manufacturer certifies are constructed in compliance with Maine Title 10, Chapter 951 and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit.

Neighborhood Convenience Store: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood with such items as, but not limited to, basic foods, newspapers, emergency home repair articles, and other household items.

Net Lot Area: the area remaining after the following are subtracted, in order, from the lot area:

1. all areas within an existing or proposed street right of way or right of way used for access to another lot;
2. or all areas with a sustained slope of 25% or more;
3. all areas with soils which are classified as very poorly drained by the U.S. Natural Resources Conservation Service; and
4. 50% of those areas with soils which are classified as poorly drained or somewhat poorly drained by the U.S. Natural Resources Conservation Service.

Net Residential Density: the number of dwelling units per net lot area.

Non-conforming Building or Use: a building, structure, use of land, or portion thereof, existing at the effective date of adoption or amendment of this Ordinance which does not conform to all applicable provisions of the Ordinance.

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.

Occupy: to inhabit any space within a structure including but not limited to attics and crows nests.

Open Space Use: a use not involving: a structure; earth-moving activity; or the removal or destruction of vegetative cover, spawning grounds, or fish, aquatic life, bird and other wildlife habitat.

Parking Space: a minimum area of two hundred (200) square feet, exclusive of drives, aisles or entrances, fully accessible for the storage or parking of vehicles.

Patio: An uncovered floor, usually made of concrete, brick or other masonry material, which is not elevated above the surface of the ground in any manner.

Personal Services: A business which provides services but not goods such as, hairdressers, shoe repair, real estate, and insurance, etc.

Planned Unit Development: land under unified management, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, site plans and design principles for all buildings intended to be on the land. Development may be a single operation or a programmed series of operations including all lands and buildings, with provision for operation and maintenance of such areas and improvements and facilities necessary for common use by the occupants of the development.

Premises: one or more lots which are in the same ownership and are contiguous or separated only by a road or waterbody, including all buildings, structures and improvements.

Principal Building: the building in which the primary use of the lot is conducted.

Principal Use: the primary use to which the premises are devoted, and the main purpose for which the premises exist.

Private Road: Any road which is not a public road or driveway.

Professional Offices: The place of business, other than a dwelling unit, for doctors, lawyers, accountants, architects, surveyors, psychiatrists, psychologists, counselors, but not including financial institutions or personal services.

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

Public Road: shall include any town maintained road, state highway or subdivision road that serves three or more lots.

Public Utility: any person, firm, corporation, municipal department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Recreational Vehicle: a 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, 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.

Restaurant: An establishment where meals are prepared and served to the public for consumption.

Standard Restaurant: A business involving the preparation and serving of meals for consumption on the premises, requiring moderate amounts of time between the period of ordering and serving of the meal.

Fast Food Restaurant: A business involving the preparation and serving of meals for consumption on the premises or off the premises, normally requiring short amounts of time between the period of ordering and serving of the meals which are served in edible or disposable containers.

Right of Way: a strip of land over which a person or persons have been given the legal right to pass and/or to install and use facilities such as roads, streets, utility services and railroads.

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

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

Road: a route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles.

Setback: the minimum horizontal distance from a lot line to the nearest part of a structure.

Setback from Water: the minimum horizontal distance from the normal high water elevation to the nearest part of a structure.

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 of the upland edge of a freshwater wetland; or within one hundred (100) feet, horizontal distance, of the normal high-water line of a stream.)

Sign: a name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly upon a building, structure, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises.

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.

Street: An existing state, county, or town way; a way dedicated for public use and shown upon a plan approved by the Planning Board and recorded in the Oxford County Registry of Deeds; or a way dedicated for public use and shown on a plan recorded in the Oxford County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term “street” shall not include those ways which have been discontinued or abandoned.

Structure: anything constructed or erected, except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground.

Subdivision: the division of a tract or parcel of land into three or more lots, whether accomplished by sale, lease, development, building or otherwise, in any five year period. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5–year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5–year period. For the purpose of this Ordinance the term subdivision shall include such developments as shopping centers, condominiums, mobile home parks and campgrounds where there are three or more units involved.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

- (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102, for a period of at least 5 years before the 2nd dividing occurs; or
- (2) The division of the tract or parcel is otherwise exempt under this definition.

Land divided by inheritance, order of court or gift to a relative, except where the objective of such transaction is to avoid municipal review is not considered part of a subdivision. Also, in determining whether a subdivision has occurred, land retained by the subdivider for his own use as a single family residence for a period of five years shall not be computed in the number of lots created unless the objective of such division is to avoid municipal review. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition.

The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. In determining the number of dwelling units in a structure, the provisions of this definition regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

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

Subsurface sewage disposal system: a collection of treatment tank(s), disposal area(s), holding tank(s) and pond(s), surface spray system(s), cesspool(s), well(s), surface ditch(es), alternative toilet(s), or other devices and associated piping designed to function as a unit for the purpose of disposing of wastes or wastewater on or beneath the surface of the earth. The term shall not

include any wastewater discharge system licensed under 38 MRSA Section 414, any surface wastewater disposal system licensed under 38 MRSA Section 413 Subsection 1-A, or any public sewer. The term shall not include a wastewater disposal system designed to treat wastewater which is in whole or in part hazardous waste as defined in 38 MRSA Chapter 13, subchapter 1.

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

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

Trailer, Utility: a vehicle without motive power, designed to be towed by a passenger automobile but not designed for human occupancy and which may include a utility trailer, boat trailer, horse trailer, or snowmobile trailer.

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.

Upland edge: the boundary between upland and wetland.

Use: the purpose for which land or a structure is arranged, designed, or intended, or for which land or a structure is or may be occupied.

Variance: a relaxation of the terms of this Ordinance where such variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship. A financial hardship shall not constitute grounds for granting a variance. The crucial points of variance are undue hardship and unique circumstances applying to the property. A variance is not justified unless both elements are present in the case.

As used in this Ordinance, a variance is authorized only for height, area, and size of structures or size of yards or open spaces or setback. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts.

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

Water Body: any great pond; rivers and streams.

Water Crossing: any project extending from one bank to the opposite bank of a river or stream, whether under, through, or over the water course. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings.

Wetland - a freshwater wetland

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

Wireless Communication Facility: Any antenna, satellite dish, microwave dish or equipment used for receiving, relaying or transmitting radio, telephone, television, or any other electromagnetic based communication or data transfer, or any tower, pole or structure supporting such equipment.

Yard: the area of land on a lot not occupied by the principal building.

Yard, Front: the area of land between the front lot line and the nearest part of the principal building.

Yard, Side: the area of land between the side lot line and nearest part of a structure.

Yard, Rear: the area of land between the rear lot line and nearest part of a structure.

ARTICLE 4 - LAND USE DISTRICT REQUIREMENTS

4.1 General requirements.

- A. A Plumbing Permit and Building or Use permit shall be required for all buildings, uses and sanitary facilities, according to the provisions of Article 6 of this Ordinance.
- B. If more than one principal building or dwelling unit is constructed on a single lot, the minimum lot area requirements shall be met for each principal building or dwelling unit.
- C. No part of the yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.
- D. All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along the intersecting street lines.
- E. No structure shall exceed 40 feet in height with a habitable floor height not to exceed 30 feet except that structures and features of buildings usually erected at a height greater than the main roofs of buildings and not intended for human occupancy, such as chimneys, towers, ventilators, flagpoles, tanks, and spires may exceed 40 feet in height, but no more than 75 feet, and shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. However within the Shoreland zone no structure shall exceed 35 feet in height as defined in the State of Maine Shoreland Zoning Guide.

4.2 Land Use Controls.

Permitted and Conditional Uses shall conform to the performance standards delineated in Article 5 of this Ordinance as Applicable. Uses permitted and allowed as conditional uses in each district shall be only those uses designated in the table below.

- Y - Permitted use, no permit required
- P - Permitted use, Code Enforcement Officer permit required
- C - Conditional use, Planning Board permit required
- N - Prohibited use
- N/A - Not Applicable
- * - see performance standards in Article 5 or 6
- ** - see separate ordinance

	Resource Protection	Shoreland	Village	Rural	Aquifer Protection
Open space use	Y	Y	Y	Y	Y
Forest Management	Y	Y	Y	Y	Y
Timber Harvesting *	Y	Y	Y	Y	Y
Clearing of Vegetation for approved construction and other allowed uses	P	P	Y	Y	Y
Animal husbandry*	N	P	P	Y	Y
Agriculture*	P	P	Y	Y	Y
Single family dwelling	N	P	P	P	P

	Resource				Aquifer
	Protection	Shoreland	Village	Rural	Protection
Two family dwelling	N	P	P	P	P
Multi-family dwelling	N	C	C	C	C
Planned unit development*	N	N	N	C	C
Cluster development*	N	C	C	C	C
Mobile home park*	N	N	C	C	C
Mobile Homes not in a mobile home park	N	P	N	P	P
Conversion of seasonal residences to year-round residences	N	P	Y	Y	Y
Home occupations*	N	P	P	Y	C
Boathouse*	N	P	P	P	P
Piers and Docks*					
in the water for 7 months or more per year	C	C	N/A	N/A	N/A
in the water for less than 7 months per year	P	Y	N/A	N/A	N/A
Signs*	P	P	Y	Y	Y
Filling, grading, or other earth moving activity involving the removal or filling of less than 250 cubic yards of material from or onto any lot in any one year*	N	P	P	Y	P
Removal or filling of material incidental to construction, alteration or repair of a building or in the grading and landscaping incidental to construction, alteration or repair of a public or private way or essential services	P	P	Y	Y	Y
Sale of produce and plants raised on the premises, or seasonal sales of produce and plants not raised on the premises	Y	Y	Y	Y	Y
Boat Launching Facilities and Marinas	N	C	N/A	N/A	N/A
Public or private recreational facilities including parks, playgrounds, golf courses,					

	Resource				Aquifer
	Protection	Shoreland	Village	Rural	Protection
driving ranges, and swimming pools	N	C	C	P	P
Campgrounds*	N	C	N	C	C
Individual Private Campsites*	N	P	P	P	P
Church or other place of worship, parish house, rectory, convent, and other religious institutions	N	C ¹	C	C	C
Public buildings such as libraries, museums, civic centers	N	C ¹	C	C	C
Utilities, including sewage collection and treatment facilities	N	C	C	C	N
Public, private and parochial schools	N	N	C	C	C
Bed & Breakfast/Inn*	N	C	C	C	C
Hotel/Motel*	N	N	N	N	N
Hospital	N	N	C	C	N
Day Care Center	N	C	P	P	N
Automobile Repair Garage	N	N	C	C	N
Automobile Service Station	N	N	C	C	N
Auto Washing Facility	N	N	N	N	N
Camp	N	C	C	C	C
Chemical and bacteriological laboratory	N	N	N	N	N
Club*	N	C	C	C	N
Commercial Recreation*	N	N	C	C	N
Commercial painting, wood preserving, and furniture stripping	N	N	N	C	N
Communication Tower	C	C	C	C	C
Dry cleaning establishment	N	N	C	C	N
Flea Market	N	C ¹	C	C	C
Kennel*	N	N	C	C	N
Laundromat	N	N	C	C	N
Manufacturing less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift	N	N	C	C	N
2,500 sq. ft. or more of floor space or more than 6 employees on any shift	N	N	N	C	N
Mechanized Recreation*	N	N	N	C	N
Neighborhood Convenience Store	N	N	C	C	C
Nursing Home	N	N	C	C	N

	Resource Protection	Shoreland	Village	Rural	Aquifer Protection
Personal Services	N	N	C	C	C
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	N	N	C	C	N
Photographic processing	N	N	N	N	N
Printing	N	N	C	C	N
Professional Offices	N	C ¹	C	C	N
Restaurant, Standard*	N	C ¹	C	C	N
Restaurant, Fast food*	N	N	N	C	N
Retail use, not elsewhere listed less than 2,500 sq. ft. of floor space and 6 or fewer employees on any shift	N	C ¹	C	C	N
2,500 sq. ft. or more of floor space or more than 6 employees on any shift	N	N	N	C	N
Storage of chemicals, including herbicides, pesticides or fertilizers other than amounts normally associated with individual households or farms	N	N	N	N	N
Sale of Vehicles	N	N	N	C	N
Veterinary Hospital*	N	N	C	C	N
Warehouse, Distribution Center	N	N	N	C	N
Wireless Communication Facility ²	C	C	C	C	C
Cemeteries	N	N	P	P	N
Automobile graveyards with three or more vehicles operated in accordance with State laws	N	N	N	C	N
Automobile graveyards with One or two vehicles*	N	N	P	P	N
Junkyards	N	N	N	N	N
Waste processing or disposal facilities	N	N	N	C	N
Mineral Extraction*	N	C	N	C	C
Mineral Exploration	N	P	P	Y	Y
Water Extraction**					
Structures accessory to permitted structures or uses	P	P	P	P	P
Structures accessory to structures or uses permitted as conditional uses	C	C	C	C	C
Uses accessory to permitted structures or uses	Y	Y	Y	Y	Y

	Resource Protection	Shoreland	Village	Rural	Aquifer Protection
Uses accessory to structures or uses which require a permit	P	P	P	P	P
Uses accessory to structures or uses permitted as conditional uses	C	C	C	C	C
Uses similar to permitted uses	Y	Y	Y	Y	Y
Uses similar to uses which require a permit	P	P	P	P	P
Uses similar to conditional uses	C	C	C	C	C
Uses similar to prohibited uses	N	N	N	N	N

¹-Limited to that portion of the Shoreland Zoning District in the Village District

²-See Section 6.16.A

4.3 Dimensional Requirements.

A. All lots created and buildings or structures erected after the effective date of this section shall meet the dimensional requirements of the following table. No portion of any lot created after the effective date of adoption or amendment of this Ordinance and lying within the Resource Protection District may be used to meet the dimensional requirements of other districts in which the remainder of the lot is situated. Where a residential structure is in existence on the effective date of adoption or amendment of this Ordinance, no lot containing such structure shall be created which does not meet the dimensional requirements of the district in which it is created.

	<u>Shoreland</u>	<u>Village</u>	<u>Rural</u>	<u>Aquifer Protection</u>
Minimum lot area (sq. ft.)	80,000 ¹	40,000*	80,000	80,000
Minimum lot width (ft.)	200	150	250	250
Minimum shore frontage (ft.)	200 ¹	150	250	250
Minimum set backs (ft.)				
Front,				
from right-of-way line of private rd	50	35	50	50
from centerline of public road	75	60	75	75
Side	20	20	20	20
Rear	20	20	20	20
From the normal high water elevation of a waterbody	100	100	100	100
From the upland edge of a wetland	100	100	100	100
Maximum lot coverage (%)	15	35	20	10

²Governmental, Institutional, Commercial uses shall require a minimum lot area of 60,000 sq. ft. with a minimum shore frontage of 300 feet.

*Village Shoreland will remain at 40,000 sq. ft. minimum

B. Additional Requirements for Subdivisions.

Due to the increased potential for erosion and sedimentation, for nutrient transport to vulnerable lakes, and for contamination of ground water resources due to concentrated development, the following additional requirements shall apply to subdivisions, as defined by Title 30-A MRSA, §4401.

1. The maximum number of lots or dwelling units shall be determined by dividing the minimum lot area of the district in which the parcel is located into the net lot area of the parcel to be subdivided. If the parcel to be subdivided is located in more than one zoning district, the net lot area of each portion of the parcel in each district shall be divided by the minimum lot area of the district.
2. No structure within a subdivision shall be located in an area identified as a very poorly drained soil.

C. Additional Requirements for the Shoreland Districts.

In order to further promote the purposes of the shoreland district, the following additional requirements shall apply within the shoreland district.

1. No structure shall be located on a site with more than 25% slope.
2. For lots created after the effective date of this section, the maximum number of lots or dwelling units permitted shall be determined by dividing the minimum lot area of the district in which the parcel is located into the net lot area of the lot.
3. No structure shall be located in an area identified as a very poorly drained soil.

D. Additional Requirements for Lots on the Saco River.

In compliance with the amendments and changes of the 1983 Rivers Act, the following provisions shall apply to all lots within 250 of the normal high water mark of the Saco River.

1. Frontage and Setback.

Lots created after the effective date of this section shall have a combined shore frontage and setback from the normal high water mark of 500 feet. For example, a lot with 200 feet of frontage along the river requires a setback for the structures of 300 feet (200 feet plus 300 feet equals 500 feet). Lot depth therefore has to be approximately 400 feet in order to accommodate the structure, the setback from the river and the setback from the road.

2. Lots without shore frontage.

For lots which are within 250 feet of the Saco River, but do not have shore frontage, the proposed lot shall be reviewed as if it extended to the shore.

3. Consultation with the Saco River Corridor Commission.

It is recommended that the Saco River Corridor Commission (Main Street Cornish, ME 04020, 625-8123) be consulted prior to making changes in ownership or use of any property along the Saco River.

E. Common Areas on the Shorefront for Lots not having Frontage on the Water.

Any lot with shore frontage which is used to grant access to the water body to other lots shall have the minimum shore frontage required for a lot in that district. For each lot or dwelling unit granted use of this common area, 50 feet additional frontage shall be required.

ARTICLE V - GENERAL PERFORMANCE STANDARDS

The following standards shall apply to all uses, both conditional and permitted, as appropriate in the various districts.

5.1 Access to Lots.

No building permit shall be issued to erect any structure on a lot without frontage on a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way, a minimum of fifty feet in width. The access road shall be constructed to a minimum width of twelve feet if serving one dwelling unit, and fifteen feet if serving two dwelling units. The access road shall contain a minimum depth of fifteen inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two dwelling units. Any access road serving between three and eight dwelling units shall meet the road design and construction standards of the Denmark Planning Board Standards for Reviewing Land Subdivisions, but need not be paved. Any access road serving more than eight dwelling units shall meet the road design and construction standards of the Denmark Planning Board Standards for Reviewing Land Subdivisions.

5.2 Accessory Buildings.

No garage or other accessory building shall be located in a required front yard. When located to the rear of the main building, the accessory building shall be set back at least 20 feet from the side or rear lot lines, provided that all accessory buildings shall be set back at least 100 feet from the normal high water elevation of a waterbody.

5.3 Archaeological Sites.

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

5.4 Buffer Areas.

When an industrial or commercial building or use is established abutting a residential use a landscaped buffer strip shall be provided to visually screen the use from adjacent dwellings. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof. The buffering shall be sufficient to minimize the impacts of any kind of potential use such as: loading and unloading operations, outdoor storage areas, vehicle parking, mineral extraction, waste collection and disposal areas. Where a potential safety hazard to small children would exist, physical screening/barriers shall be used to deter entry to such premises. The buffer areas shall be maintained and vegetation, as necessary, replaced to insure continuous year round screening.

5.5 Clearing of Vegetation for Development.

The following provisions shall apply only within the Shoreland Zone.

- A. Within a Resource Protection District abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 100 feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.

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

B. Except in areas as described in Paragraph A, 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, 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:

1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or stream flowing to a great pond, the width of the foot path shall be limited to six (6) feet.
2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. For the purposes of this section a “well-distributed stand of trees and other vegetation” adjacent to a great pond or a river or stream flowing to a great pond, shall be defined as maintaining a rating score of 12 or more in any 25-foot by 25-foot square (625 square feet) area as determined by the following rating system.

Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - 4 in.	1
4 - 12 in.	2
12 in.	4

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

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.

3. A drilled, driven, or dug well is permitted within the 100 foot buffer area provide a permit is obtained from the Code Enforcement Officer; erosion and sedimentation control practices meeting the requirements of Section 5.6 are employed and any cleared area in excess of 250 square feet is replanted to trees.
4. In order to protect water quality and wildlife habitat, adjacent to great ponds, and streams which flow to great ponds, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs B and B.1 above.
5. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
6. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

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

- C. At distances greater than one hundred (100) feet, horizontal distance, from a water body or the upland edge of a wetland, except to allow for the development of permitted uses, there shall be permitted on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, exceed in the aggregate, 25% of the lot area or ten thousand (10,000) square feet, whichever is lesser, including land previously developed.

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

5.6 Erosion and Sedimentation Control

- A. On any site with a slope of 10% or more, and within the shoreland zone all activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:
 - 1. Mulching and revegetation of disturbed soil.
 - 2. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - 3. Permanent stabilization structures such as retaining walls or riprap.
- B. 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. The top or bottom of a cut or fill shall not be closer than ten feet to a property line unless otherwise mutually agreed to by the affected landowner and town but in no instance shall the cut or fill exceed a 2:1 slope.
- C. 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.
- D. 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:
 - 1. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - 2. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

3. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of stacked hay bales and/or silt fences.
- E. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.

5.7 Landscaping

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring developed areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.

5.8 Off Street Parking and Loading Requirements.

A. Basic Requirements.

In any District where permitted, no use of premises shall be authorized or extended, and no building or structure shall be constructed or enlarged unless there is provided for such extension, construction or enlargement, off-street automobile parking space within three hundred (300) feet of the principal building, structure, or use of the premises, in accordance with the following schedule of parking requirements. An area of two hundred (200) square feet appropriate for the parking of an automobile, exclusive of maneuvering space, shall be considered as one off-street parking space. No required parking space shall, for the purposes of this Ordinance, serve more than one use. No off-street parking facility shall have more than two (2) entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width. Parking areas with more than two (2) parking spaces shall be so arranged that vehicles can be turned around within such areas and are prevented from backing into the street.

B. Schedule of Minimum Off-Street Parking Requirements.

1. Two (2) spaces per dwelling unit.
2. One (1) space for each sleeping room in a bed and breakfast, inn, tourist home, boarding or lodging house,.
3. One (1) space for each recreational vehicle, tent or shelter site in a campground.
4. One (1) space for each two (2) beds in a hospital or sanitarium.
5. One (1) space for each four (4) beds for other institutions devoted to the board, care, or treatment of persons.
6. One (1) space for each one hundred fifty (150) square feet or fraction thereof, of floor area of any retail, wholesale, or service establishment, office or professional building.
7. One (1) space for each three (3) seats, permanent or otherwise, for patron use for restaurants, and other places serving food or beverage and for theaters, auditoriums, and other places of amusement or assemble.
8. One (1) space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial, or other permitted uses.

9. Adequate spaces shall be provided to accommodate customers, patrons, and employees at automobile service stations, drive-in establishments, open air retail businesses and amusements and other permitted uses not specifically enumerated.
10. The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that the parking facilities would substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.

C. Off-Street Loading.

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading or storage upon any public way.

D. Landscaping.

Required parking and loading spaces for non-residential uses, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than eight (8) feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles and entering and leaving. Parking lots larger than 20,000 square feet in area shall provide a 2 1/2" caliper shade tree per 20 parking spaces (6 trees per acre) located at representative points throughout the lot.

E. Within the shoreland zones the following additional regulations shall apply.

1. Parking areas shall meet the shoreline setback requirements for structures. The setback requirement for parking areas serving public boat launching facilities may be reduced to no less than fifty (50) feet from the normal high-water line or upland edge of a wetland if the Planning Board finds that no other reasonable alternative exists.
2. Parking areas shall be designed to prevent storm water runoff from flowing directly into a water body, and where feasible, to retain all runoff on-site.

5.9 Protection of Drinking Water Supplies.

- A. Before locating any well within 100 feet of any public road or any existing septic system, the landowner must sign a waiver of liability absolving the Town of Denmark from liability for any contamination of the well.
- B. Prior to the issuance of any occupancy permit for any structure with a potable water supply system, a water quality analysis demonstrating that the *Maine Safe Drinking Water Guidelines* are met shall be submitted to the code enforcement officer.

5.10 Roads and Driveways

The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.

- A. Roads and driveways shall be set back at least one-hundred (100) feet from the normal high-water line of a water body or the upland edge of a wetland unless no reasonable alternative exists as determined by the Appeals Board. If no other reasonable alternative exists, the Appeals Board may reduce the road and/or driveway setback requirement to no less than fifty

(50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

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

- B. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body.
- C. New roads and driveways are prohibited in a Resource Protection District except to provide access to permitted uses within the district, or as approved by the Appeals Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- D. Road banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in section 5.23.
- E. Road grades shall be no greater than ten (10) percent.
- F. In order to prevent road surface drainage from directly entering water bodies, roads shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Road surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- G. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:

- 1. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

Road Grade (Percent)	Spacing (Feet)
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- 2. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

3. On road sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed across the road at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road.
 4. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials
- H. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

5.11 Sanitary Provisions.

Sewerage disposal shall meet all requirements of the Maine Subsurface Wastewater Disposal Rules.

- A. The approval of building permit applications shall be subject to presentation of a completed site evaluation form (HHE-200) which evidences adequate site conditions for wastewater disposal.
- B. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

5.12 Signs.

A. General.

Billboards are prohibited. The following provisions shall apply to signs in all Districts where permitted.

B. Size, Location and Illumination.

1. No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording the sign may interfere with, obstruct the view of or be confused with any authorized traffic sign, signal or device or otherwise constitute a hazard to pedestrian or vehicular traffic.
2. Flashing, moving or animated signs are prohibited.
3. No sign shall exceed twenty (20) feet in height.
4. No sign shall be located within three (3) feet of a street line or other lot line.
5. Signs may be illuminated only by shielded, non-flashing lights.

C. Types of Signs.

1. Public traffic and directional signs designating public or semi-public activities shall be permitted.
2. Name signs shall be permitted, provided such signs shall not exceed 2 square feet in area, and shall not exceed two signs per premises.
3. Residential users may display a single sign not over 6 square feet in area relating to goods or services rendered on the premises, or to the sale, rental, or lease of the premises.

4. Signs relating to trespassing and hunting shall be permitted.
5. Commercial uses may display a single sign that may be lettered on two sides not to exceed 16 square feet per side, relating to goods and services sold on the premises shall be permitted except in the Shoreland Zones. In the Shoreland Zones such signs shall not exceed six square feet in area.

5.13 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.

5.14 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.

5.15 Storm Water Runoff

- A. 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 storm water. If runoff after development would exceed predevelopment runoff conditions, the off-site impact must be evaluated in terms of potential soil erosion and sedimentation, drainage capacity, and land use/land cover characteristics. Appropriate methods of reducing off-site impact shall be employed. Storm water management evaluations and designs shall be based on a 24-hour, 25 year recurrence interval storm.
- B. Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

[NOTE: A Stormwater Management Permit is required from the Maine Department of Environmental Protection prior to the disturbance of five acres or more or the construction of 40,000 square feet or more of impervious surface.]

5.16 Traffic Impacts and Street Access Control.

- A. General.

Provision shall be made for vehicular access to the development and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and within the development, to avoid traffic congestion on any street and to provide safe and

convenient circulation on public streets and within the development. More specifically, for uses other than single family dwellings, access and circulation shall also conform to the following standards and the design criteria below.

Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is less potential for traffic congestion and for hazards to traffic and pedestrians.

B. Driveway Design.

The following provisions shall apply to the design and construction of driveways and other vehicular accesses onto public roads, except in the Village district.

1. **Sight Distances.** Driveways shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit driveway with the front of the vehicle a minimum of 10 feet behind the curblineline or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/2 feet above the pavement. A sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

2. **Driveway Location and Spacing.**

a. **Minimum Corner Clearance.** A minimum corner clearance of 50 feet shall be provided from any intersection. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the driveway. In general the maximum corner clearance should be provided as practical based on site constraints.

Where the minimum standard cannot be met, only a special case driveway where turning is limited to right turn shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

b. **Driveway Spacing.** Driveways shall be separated from adjacent driveways a minimum of 75 feet and from property lines a minimum of ten feet, in order to allow public roads to effectively serve their primary function of conducting through traffic.

C. Number of Driveways.

The maximum number of driveways onto a single street is controlled by the available site frontage and the requirements above. In addition, no lot shall have more than two driveways onto a single roadway.

5.17 Village District Design Standards.

Within the Village Districts all new structures and additions to existing structures shall meet the following standards:

A. Exterior siding of the structure shall be clapboards, shingles, shakes, log, board and batting, brick, including synthetic or metal siding manufactured to match exterior finished siding of existing building.

B. Roofs shall be either peaked or mansard in design.

5.18 Water Quality Protection.

- A. No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that run off, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil, or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- B. The washing, bathing, or cleaning of humans, animals or objects with soaps, detergents, or cleaning agents shall be prohibited in surface waters or in areas adjacent to surface waters if washwater can reach surface waters without treatment or absorption into the soils.
- C. All above ground storage facilities for fuel, chemicals, chemical or industrial wastes, and biodegradable raw materials, shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a 25-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for “home heating oil” and diesel fuel, not exceeding 275 gallons in size, are exempt from this requirement unless located in the Aquifer Protection district.
- D. Phosphorus Protection

The increase in the concentration of phosphorus dissolved or suspended in surface water runoff presents a threat to the quality of lake waters. Therefore this section is designed to protect long-term lake water quality by minimizing increases in phosphorus run-off to no more than the levels recommended in Table 9-2 of the Denmark Comprehensive Plan, Inventory of Resources. The provisions of this section shall apply only to development activity in the watershed of a great pond.

1. New development shall be designed and constructed to limit the phosphorus export to the values contained in the table below.

Per Acre Phosphorus Allocation, by Great Pond Watershed	
Great Pond Watershed	Per Acre Allocation (lbs. P/acre/yr.)
Beaver Pond	.0665
Boston Pond	.0766
Granger Pond	.0552
Hancock Pond	.1369
Horseshoe Pond	.1840
Lily Pond	.0853
Long Pond	.0864
Moose Pond, Middle Basin	.1119
Moose Pond, South Basin	.0843
Perley Pond	.1061
Pickrel Pond	.0897
Pleasant Pond	.0784
Sand Pond	.0892
Shaking Bog	.0527

2. The following types of development qualify for a simplified method of determining the phosphorus export.
 - a. A new single family dwelling or two-family dwelling with a cumulative driveway length not exceeding 450 feet, not located in a subdivision approved by the Denmark Planning Board after the effective date of this ordinance.
 - b. Non-residential development and multifamily housing with less than 20,000 square feet of disturbed area including parking, driveway, lawn, septic system, infiltration area, building and a road not exceeding 200 linear feet.

These uses shall be deemed to comply with the phosphorus export standards of Section 5.18.D.1 above if a permanent, vegetated buffer strip is located downhill from the developed portion of the lot according to the requirements of the tables in Appendix A of this Ordinance, whichever applies according to great pond watershed. On an existing lot of record that is smaller in size than what is required in the table, the applicant shall meet the buffer width requirement to the maximum extent possible.

The “Clearing Restricted” buffer widths shall apply on those lots on which clearing of wooded vegetation is restricted, by deed covenants and permit conditions to no more than 12,500 square feet in area.

3. Developments which do not meet the criteria for the simplified review shall prepare a phosphorus export analysis in accordance with the methodology contained in *Phosphorus Control in Lake Watershed: A Technical Guide to Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 Revision. An applicant for a development which qualifies for the simplified review, but who chooses to not meet the buffer strip requirements contained in Appendix A may, instead, use the methodology in the *Technical Guide* to show that the proposed development will meet the phosphorus export standards of Section 5.18.D.1.
4. Occupants and property owners shall maintain vegetated buffer strips and, if applicable, other phosphorus control measures in accordance with the buffer maintenance requirements contained in Section 5.3 of the *Technical Guide*.

ARTICLE 6 - PERFORMANCE STANDARDS, SPECIFIC ACTIVITIES AND LAND USES

6.1 Agriculture and Animal Husbandry.

- A. All spreading or disposal of manure shall be accomplished in conformance with the "Maine Standards for Manure and Manure Sludge Disposal on Land" published by the University of Maine and Maine Soil and Water Conservation Commission in July 1972.
- B. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, or the spreading, disposal or storage of manure within the shoreland zone shall require a Soil and Water Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- C. There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a water body; nor within twenty-five feet, horizontal distance, of wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- D. Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, from:
 - 1. a water body or wetlands, or
 - 2. the nearest dwelling other than the applicant's, or
 - 3. any drinking water supply wells.

Within five (5) years of the effective date of this ordinance all manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water. Existing facilities which do not meet the setback requirement may remain, but must meet the no discharge provision within the above five (5) year period.

- E. After the effective date of this Ordinance, newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body, nor; within twenty-five (25) feet, horizontal distance, of wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Soil and Water Conservation Plan.
- F. Animal husbandry shall meet the following standards:
 - 1. When located on a lot smaller than three acres, all pasture, barns, barnyards, and other areas where the livestock, animals, or fowl are kept, housed, fed, or cared for shall be a minimum of 20 feet from all lot lines and 100 feet from a drinking water supply wells except the well which supplies the owner of the lot on which the animals are kept.
 - 2. All feed and grain shall be stored in rodent proof containers.
 - 3. All paddocks, pastures, barnyards or other enclosures must be adequately fenced to contain livestock, animals or fowl.

6.2 Automobile Graveyards and Junkyards.

Automobile graveyards with three or more unserviceable, discarded, worn-out or junked motor vehicles shall meet the following standards:

- A. Prior to issuance of the municipal permit, the applicant shall present either a permit from the Maine Department of Environmental Protection (DEP) or a letter from the DEP stating that a permit is not required.
- B. Site Considerations.
 - 1. No motor vehicles or material shall be located on a sand and gravel aquifer or on an aquifer recharge area as mapped by the Maine Geological Survey or a licensed geologist.
 - 2. No motor vehicles or material shall be located within the 100 year flood plain.
 - 3. 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.
 - 4. No motor vehicles or material shall be stored within 500 feet of any dwelling or school.
 - 5. No motor vehicles or material shall be stored within 300 feet of any water body.
- C. Operational Considerations.
 - 1. 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. In addition, the trunk latch shall be removed.
 - 2. Within 30 days of receiving a motor vehicle, the vehicle shall be disassembled and those parts which are to be retained for resale shall be stored within a building. Parts which are not to be resold shall be removed from the site within 30 days of disassembly.

6.3 Bed & Breakfast/Inn.

- A. The application for approval shall include a scale drawing of the lot showing the location of existing buildings, existing and proposed parking, and existing and proposed sewage disposal systems.
- B. There shall be no less than one parking space for each rental room in addition to the spaces required for any dwelling unit.
- C. There shall be one bathroom provided for the rental rooms, in addition to the bathroom for the dwelling unit.
- D. Each rental room shall be equipped with an approved smoke detector.

6.4 Boathouses.

Boathouses may be located within a shore lot, but shall be set back a minimum of 100 feet from the normal high water elevation of lake, pond, river or stream; shall not exceed one (1) boathouse on the premises for each shore lot; shall not exceed a height of fifteen (15) feet; shall not exceed three hundred (300) square feet in horizontal area covered; and shall be at least twenty (20) feet from any side lot line. All distances shall be measured horizontally.

6.5 Campgrounds.

Campgrounds shall conform to the minimum requirements imposed under State licensing procedures and the following:

- A. Campgrounds shall contain a minimum of 5000 square feet, 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.
- B. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.
- C. Each recreational vehicle, tent, or shelter site shall be provided with a picnic table trash receptacle, and fireplace.
- D. The area intended for placement of the recreational vehicle, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area and 100 feet from the normal high water elevation of any waterbody or the upland edge of a wetland.
- E. All campgrounds shall be screened from adjacent land areas by a continuous landscaped area not less than 25 feet in width containing evergreen shrubs, tree, fences, walls, or any combination of which forms an effective visual barrier of not less than six (6) feet in height.

6.6 Individual Private Campsites/Recreational Vehicles

Individual, private campsites not associated with campgrounds are permitted provided the following conditions are met:

- A. One campsite/recreational vehicle per lot.
- B. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet from the normal high-water line of a water body or the upland edge of a wetland, must meet all necessary set back requirements. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to 1,000 square feet.
- C. Recreational vehicles shall not be located on any type of permanent foundation except for a gravel pad, the wheels must remain on the ground, and no structure(s) except canopies shall be attached to the recreational vehicle.
- D. The recreational vehicle shall be utilized in a temporary recreational manner, consistent with its design, and in no way as a permanently located dwelling, occupied or unoccupied; and will be removed from the town, (unless stored at a primary residence) upon completion of a temporary occupancy period.
- E. If located in the town of Denmark (except for storage at a primary residence) for a period in excess of thirty (30) days per year, recreational vehicles shall require a permit issued by the Code Enforcement Officer in accordance with the provisions of this *Ordinance, Section 7.4.
- F. The recreational vehicle, in order to be considered a vehicle and not a structure subject to the Building Code or Federal Manufactured Housing Standards, must be roadworthy and possess a current registration from any State Department of Motor Vehicles, as appropriate.

- G. The campsite or recreational vehicle shall not be permanently connected to any type of subsurface waste disposal system; sewage must be dumped at a facility specifically designed and legally authorized for receipt of such sewage.
- H. The campsite or recreational vehicle shall not be permanently connected to any form of public utility.
- I. 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.
- J. 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.

***Ordinance related to Recreational Vehicle Permits.** Unless in storage at a primary residence, Recreational Vehicles located in the Town of Denmark for a period in excess of thirty (30) days per year shall require a permit issued by the Code Enforcement Officer (CEO). The minimum Building Permit fee shall be waived. Maximum duration of the permit will be 90 days per calendar year, and may be subdivided in increments of 30 consecutive days only.

6.7 Home Occupations.

- A. Home occupations shall be carried on wholly within the principal building or within a building or other structure accessory to it.
- B. Not more than two persons outside the family shall be employed in the home occupation.
- C. There shall be no exterior display, no exterior sign (except as permitted by the provisions of this Ordinance), no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal buildings.
- D. No nuisance, waste discharge, offensive noise, vibration, smoke, dust, odors, heat, glare, or radiation shall be generated.
- E. 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, to items which are accessory and incidental to a service which is provided on the premises, and to antiques and other collectibles.

6.8 Mineral Exploration and Mineral Extraction.

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring, or other methods which create minimal disturbance of less than one hundred (100) square feet of ground surface. A permit from the Code Enforcement Officer shall be required for mineral exploration which exceeds the above limitation. All excavations, including test pits and holes shall be immediately capped, filled or secured by other equally effective measures, so as to restore disturbed areas and to protect the public health and safety.
- B. Mineral extraction may be permitted under the following conditions:

1. Submission requirements

In addition to the requirements for a conditional use application, the applicant shall submit plans of the proposed extraction site:

- a. The property lines and names of abutting owners and ways, indicating not greater than five foot contour intervals; the location and slope of the grades, existing and as proposed upon completion of the extraction operation; and detailing proposed fencing, buffer strips, signs, lighting, parking and loading areas, entrances and exits; together with a written statement of the proposed method, regularity, working hours and total proposed rehabilitation and restoration of the site upon completion of the operation.
- b. The Board may require the additional submission of a hydrogeologic study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

3. Design and Performance Standards

- a. No part of any extraction operation, including drainage and runoff control features shall be permitted within one hundred (100) feet of the normal high-water line of a water body or the upland edge of a wetland. Extraction operations shall not be permitted within seventy-five (75) feet of any property line, without written permission of the owner of such adjacent property.

- b. Excavation may not occur within 3 feet of the seasonal high water table, except in the Aquifer Protection District where excavation may not occur within 5 feet of the seasonal high water table. If the application for conditional use approval does not include the determination of the elevation of the seasonal high water table, the elevation shall be estimated from nearby waterbodies and wetlands, and drinking water wells and the operator shall, at the request of the Code Enforcement Officer, dig a test pit at least required separation depth to demonstrate compliance with this standard. The bottom of the excavated area shall be no less than one foot above the elevation of the 100 year flood plain and not less than 200 feet from the normal high water line of any body of water.
- c. If any standing water accumulates, the site shall be fenced in a manner adequate to keep children out. Measures shall be taken to prevent or halt the breeding of insects.
- d. No slopes steeper than 2 feet horizontal to 1 foot vertical shall be permitted at any extraction site unless a fence at least 6 feet is erected to limit access to such locations.
- e. Before commencing removal of any earth materials, the owner or operator of the extraction site shall present evidence to the Planning Board of adequate insurance against liability arising from the proposed extraction operations, and such insurance shall be maintained throughout the period of operation.
- f. Any topsoil and subsoil suitable for purposes of re-vegetation shall, to the extent required for restoration, be stripped from the location of extraction operations and stockpiled for use in restoring the location after extraction operations have ceased. Such stockpiles shall be protected from erosion, according to the erosion prevention performance standards of this section.
- g. All access/egress roads leading to or from the extraction site to public ways shall be treated with suitable materials to reduce dust and mud for a distance of at least 200 feet from such public ways. No mud, soil, sand, or other materials shall be allowed to accumulate on a public street from loading or hauling vehicles.
- h. No equipment debris, junk or other material shall be permitted on an extraction site. Any temporary shelters or buildings erected for such operations and equipment used in connection therewith shall be removed within 30 days following completion of active extraction operations.
- i. Within six months of 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:
 - i. 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.
 - ii. The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
 - iii. Storm drainage and water courses shall leave the location at the original natural drainage points and in a manner such that the amount of drainage at any point is not significantly increased.

- iv. At least four inches of topsoil or loam shall be retained or obtained to cover all disturbed areas, which shall be reseeded and properly restored to a stable condition.
 - v. No slope greater than 3 feet horizontal to 1 foot vertical shall be permitted.
4. In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.
- D. An excavation of less than 5 acres of land for gravel, clay, topsoil or silt must be conducted and reclaimed as defined in the Planning & Land Use Laws, Title 38 – Section 490-M. The excavation must be reclaimed in phases so that the working pit does not exceed 2 acres at any one time.

6.9 Mobile Homes and Mobile Home Parks.

A. Mobile Homes not in a Mobile Home Park.

Mobile homes not in a mobile home park shall meet all of the requirements of this Ordinance for single family dwellings. Any manufactured housing unit manufactured prior to June 15, 1976 shall meet the access, egress and ventilation standards of the National Fire Prevention Association, Life Safety Code 101, 1997 edition

B. Mobile Home Parks.

Mobile home parks are subject to review and approval by the Denmark Planning Board. Except as stipulated below, mobile home parks shall meet all the requirements for a residential subdivision, and shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this section conflict with specific provisions of the Denmark Subdivision Regulations, the provisions of this section shall prevail.

1. Lot Area and Lot Width Requirements.

Notwithstanding the dimensional requirements table located in Section 4.3 of this ordinance, lots in a mobile home park shall meet or exceed the following minimum lot area and lot width requirements.

a. Lots served by individual subsurface waste water disposal systems

Min. lot area: 20,000 square feet

Min. lot width: 100 feet

b. Lots served by a central subsurface waste water disposal system approved by the Maine Department of Human Services:

Min. lot area: 12,000 square feet

Min. lot width: 75 feet

c. The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 square feet of total park area.

d. No part of any lot within a park may be located within any shoreland zoning or resource protection district.

2. Unit Setback Requirements.

- a. Structures shall not be located less than 15 feet from any boundary lines of an individual lot.
- b. On lots which abut a public way either within the park or adjacent to the park, structures shall meet the front setback requirements in the dimensional requirements table in Section 4.3 of this ordinance.

3. Buffering.

- a. If a park is proposed with a residential density at least twice the density of adjacent development in existence, or at least twice the density permitted in the zoning district in which the park is located if the neighboring land is undeveloped, the park shall be designed with a continuous landscaped area not less than fifty feet in width which shall contain no structures or streets.
- b. The buffering standards of Section 5.5 shall apply to mobile home parks.

4. Road Design, Circulation, and Traffic Impacts.

Streets within a park shall be designed by a Professional Engineer, registered in the State of Maine.

- a. Streets which the applicant proposes to be dedicated as public ways shall be designed and constructed in accordance with the standards for streets in the Denmark Subdivision Regulations.
- b. Streets which the applicant proposes to remain private ways shall meet the following minimum geometric design standards.
 - i. Minimum right of way width: 23 feet
 - ii. Minimum width of traveled way: 20 feet
- c. Any mobile home park expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets. Any street within a park with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
- d. No individual lot within a park shall have direct vehicular access onto an existing public street.
- e. The intersection of any street within a park and an existing public street shall meet the following standards.
 - i. Angle of intersection. The desired angle of intersection shall be 90°. The minimum angle of intersection shall be 75°.
 - ii. Maximum Grade within 75 feet of intersection. The maximum permissible grade within 75 feet of the intersection shall be 2%.
 - iii. Minimum Sight Distance. A minimum sight distance of 10 feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is 10 feet behind the curb or edge of shoulder line with the height of the eye 3 1/2 feet above the pavement and the height of object 4 1/4 feet.

- iv. Distance from other intersections. The centerline of any street within a park intersecting an existing public street shall be no less than 125 feet from the centerline of any other street intersecting that public street.
 - f. The application shall contain an estimate of the average daily traffic projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. If the park is projected to generate more than 400 vehicle trip ends per day, the application shall also include a traffic impact analysis, by a registered professional engineer with experience in transportation engineering.
5. No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements. The plan to be recorded at the Registry of Deeds and filed with the municipality shall include the following restrictions as well as any other notes or conditions of approval.
- a. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.
 - b. No dwelling unit other than a manufactured housing unit shall be located within the park.

6.10 Multi Family Dwelling Units.

A. Two-Family Dwelling Units.

Lots for two-family units shall meet all of the dimensional requirements for single-family dwelling units, except that the lot area and shoreline frontage shall be equal to that required for an equivalent number of single-family dwelling units, and the road frontage shall exceed by 50% the requirement for a single-family dwelling unit.

B. Multi-Family Dwelling Units.

Multi-family (3 or more) dwelling units shall meet all of the following criteria:

1. Lot area and shoreline frontage shall be equal to that required for the equivalent number of single-family dwelling units.
2. The minimum road frontage shall be 400 feet.
3. Lots for multifamily dwelling units shall meet all other dimensional requirements for single-family dwellings.
4. No building shall contain more than five (5) dwelling units.
5. All multi-family dwellings shall be connected to a common water supply and distribution system, either public or private, at no expense to the Municipality.
6. Evidence of compliance with the *Maine Subsurface Wastewater Disposal Rules* shall be submitted. If the multifamily development is the change of use or expansion of use of an existing building, the provisions of Title 30-A M.R.S.A., §4211, sub§3 shall be met.
7. No parking area shall be located within the required yard areas.
8. Multi-family dwelling units shall meet all the requirements for a residential sub-division including Planning Board approval.

6.11 Piers, Docks, Wharfs, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High Water Elevation of a Water Body or Within a Wetland

- A. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- B. The location shall not interfere with existing developed or natural beach areas.
- C. The facility shall be located so as to minimize adverse effects on fisheries.
- D. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with existing conditions, use, and character of the area.
- E. 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.
- F. 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.

6.12 Planned Unit Development and Cluster Development

A. Purpose.

The purpose of these provisions is to allow for new concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the District in which the development is proposed.

B. Basic Requirements.

Planned unit developments, cluster developments shall meet all of the following criteria:

- 1. All planned unit developments, cluster developments shall meet all requirements for a residential subdivision including Planning Board approval.
- 2. The minimum area of land a planned unit development, cluster development shall be 10 acres.
- 3. Any lot abutting a public road shall have a frontage no less than that normally required in the District. On other than public roads, road frontage may be reduced by not more than 30% from the requirements of the District in which the proposed development is located, provided that:
 - a. No building lot shall have an area of less than 10,000 square feet.
 - b. All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turn-around may be reduced by 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.
- 4. In no case shall shore frontage be reduced below the minimum shore frontage normally required in the District. No easements for use of shoreline shall be granted except for dwelling units contained within the project.
- 5. Lots for a planned unit development, cluster development shall meet all other dimensional requirements for the District in which they are located.

6. The total area of common land 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 in the District.
7. Every building lot that is reduced in area below the amount normally required shall abut such common land for a distance of at least fifty (50) feet.
8. Where a planned unit development or cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land. Each shore lot shall not contain more than one common dock and said dock shall have its size and shape approved by the Planning Board.
9. All dwelling units in a planned unit development or cluster development shall be connected to common water supply and distribution system, either public or private, at no expense to the Municipality.
10. All structures with required plumbing in a planned unit development, cluster development or motel shall be connected to a public sanitary sewer system, if available, or to a central collection and treatment system in accordance with the sanitary provisions of this Ordinance.
11. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

C. Dedication and Maintenance of Common Open Space.

1. All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the building lots, by an association or trust which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Municipality.
2. Further subdivision of the common land or its use for other than non-commercial recreation or conservation, except for easements for underground utilities, shall be prohibited. Structures and building accessory to non-commercial recreational or conservation uses may be erected on the common land.
3. The common open space(s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that:
 - a. It shall not be used for future building lots; and that
 - b. A part or all the common open space may, at the option of the Town, be dedicated for acceptance by the Town for operation as a municipal recreation facility.
4. If any or all of the common open space is to be reserved for use by the residents, the by-laws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan approval.
5. This neighborhood association shall have the responsibility of maintaining the common open space(s).
6. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Village assessments.

7. The developer or subdivider shall maintain control of such open spaces(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request by the neighborhood association or trust or the developer or subdivider.

6.13 Recreational Facility.

All recreation facilities shall meet the provisions below:

- A. There shall be provided adequate off-street parking for the anticipated maximum attendance at any event.
- B. Containers and facilities for rubbish collection and removal shall be provided.
- C. Adequate screening, buffer area, or landscape provisions shall be built, planted, or maintained to protect adjacent residences from adverse noise, light, dust, smoke, and visual impact.
- D. Sanitation facilities meeting the Maine Subsurface Wastewater Disposal Rules shall be provided.

6.14 Restaurants.

- A. The application for a permit shall state the maximum seating capacity of the restaurant. Any expansion or enlargement over the stated capacity shall require a new permit.
- B. All parking and loading facilities shall be screened from abutting residences within 200 feet. Screening shall be comprised of a continuous landscaped area not less than eight feet in width containing evergreen shrubs, trees, fences, walls, berms, or any combination, forming a visual barrier not less than six feet in height.
- C. Rest room facilities for the patrons shall be provided on the premises.

6.15 Timber Harvesting (MANAGED BY THE STATE OF MAINE).

6.16 Wireless Communication Facilities and Communications Towers

Communication towers and antennas are permitted as a conditional use only except as follows:

- A. The placement of antennas and associated equipment onto an existing structure may be allowed without a conditional use permit except in the Shoreland Zone when they are designed to be incorporated into the architecture of new or existing buildings or into the fabric of other manmade or natural structures or features so as to be inconspicuous when viewed at any point beyond the limits of the host property.
- B. The height of any communication tower shall not exceed the height of the existing vegetation surrounding the base of the tower without a radio frequency analysis prepared by a registered professional engineer indicating the proposed height is the minimum needed to provide reasonable service for the intended purposes. The maximum height of any tower shall not exceed 190 feet. The height of an antenna shall be included in the total height limitation as allowed for a communication tower.
- C. The tower shall be set back from all property lines a minimum of its height.
- D. The tower shall not be lit.
- E. The tower shall remain unpainted galvanized steel or be painted gray or silver.

- F. At its base the tower shall be no wider than four feet. No individual member of the tower may have a diameter or thickness larger than four inches.
- G. The applicant shall present evidence to the Planning Board that there are no existing structures which may be used to support the antenna and associated equipment and provide an equivalent level of service as the proposed facility and tower.
- H. Wireless communications facilities which have been abandoned or which have remained unused for a period of six months shall be removed. The tower owner shall notify the Code Enforcement Officer on an annual basis regarding the status of the use of the tower. The tower, any associated buildings used only for sheltering communications equipment, and any fencing or other appurtenances shall be removed at such time as they have no longer been used for a period longer than six months. Prior to approval, the applicant shall submit a guarantee acceptable to the Town in an amount sufficient to pay for the cost of removal of the facility. The guarantee shall be made available to the town upon a finding, including adequate written notice to the applicant, that the facilities have not been used for a six-month period.
- I. Communications towers owned by agencies of the State or Federal Government, erected for the purpose of installing antenna(s) and ancillary equipment necessary to provide communications for public health and safety, may be exempted from the standards of subsections F, G and H above, provided the exemption does not result in increased risk to public health, safety or the environment.³

³ Amended June 4, 2011

ARTICLE 7 - ADMINISTRATION

7.1. Enforcement.

- A. The Municipal Officers shall annually appoint a Code Enforcement Officer. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this ordinance. If the Code Enforcement Officer finds that any provision of this ordinance is being violated, the Code Enforcement Officer shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. The Code Enforcement Officer shall order the removal of illegal buildings, structures, additions or work being done, or shall take any other action authorized by this ordinance to insure compliance with, or to prevent violation of, its provisions.
- B. The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
- C. The Code Enforcement Officer shall have the authority to conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with the laws or ordinances set forth in this section. If consent is denied the Code Enforcement Officer should obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a permit after proper notification and a public hearing if it was issued in error or if based on erroneous information.
- D. The Code Enforcement Officer shall attend the regular meetings of the Planning Board and provide a report of his or her activities since the last meeting.
- E. Suspension or Revocation of Permits.

The Code Enforcement officer may suspend an approval of a permit if it was issued in error or if it was granted based upon incomplete or false information. The Code Enforcement Officer shall provide the applicant with a written notice of suspension stating the reason for the suspension; the corrective measures to be taken and the period of time given to the applicant to correct the violation. A suspension shall cease when corrective measures have been completed and the applicant is provided with a written notice from the Code Enforcement Officer indicating that the suspension has been removed. If the violation has not been corrected or removed within the specified time period, the Code Enforcement Officer shall revoke the approval or permit by furnishing to the applicant a written notice indicating the reason for revocation. Once a permit is revoked, no work shall be resumed until and unless a new approval or permit is obtained by the applicant.

During the period of a suspension or revocation, no work shall continue on a project for which an approval or permit was granted except in the interest of securing public safety and protection of the property, with any such work having the written approval of the Code Enforcement Officer.

Any suspension or revocation of an approval or permit may be appealed as an administrative appeal to the Board of Appeals, pursuant to Section 7.8 of the ordinance.

7.2. Building or Use Permit.

A permit shall be obtained prior to the commencement of construction or placement of any new structure and for any exterior alteration or addition exceeding 80 square feet in area and prior to the establishment of a use or change of use of a premises. In addition a permit shall be required prior to any use of land indicated as needing one under Section 7.2.

The following construction activities shall not require a permit: any new structure and any exterior alteration or addition of 80 square feet or less in area, repairs, replacement, and/or normal maintenance, decorative changes in existing structures or buildings, provided that the activity is in conformance with Federal, State or local laws and does not involve any other physical modifications or changes requiring a permit under this ordinance. Any structure not requiring a permit must meet all requirements of the Zoning Ordinance.

- A. All applications for Building or Use permits shall be submitted in writing to the Code Enforcement Officer on forms provided for the purpose and shall include the following information.
1. Structures to be erected, structures to be moved, and exterior additions to existing structures:
 - a. The shape and location and proposed use or uses of the lot for which application is made.
 - b. The shape, size and location on the lot of the proposed structure, and of any proposed additions to existing structures.
 - c. The shape, size and location of any other existing structures on the lot.
 2. All applications shall also include:
 - a. The name and address of the property owner.
 - b. The name, address and telephone number of the person, firm, or firms involved in the construction on the property.
 - c. The value of any proposed construction.
 - d. A statement of the proposed use for any new or moved structure or altered portion of an existing structure.
 - e. Any other information the applicant wishes to furnish.
 - f. Any other information requested by the Code Enforcement Officer to make the application intelligible, and to determine whether the proposed construction and/ or uses will conform to this ordinance, other local ordinances and state law.
 - g. A certification that the information in the application is complete and correct to the best of the applicant's knowledge and belief.
 3. All applications shall be signed
 - a. by the person or firm to do the work; and
 - b. by the owner of the property or other person authorizing the work.
 4. All applications shall be dated, and the Code Enforcement Officer shall note upon each application the date and time of its receipt.

- B. Upon receipt of a permit application the Code Enforcement Officer shall:
1. Decide whether the information in the application is sufficient to determine whether, under the ordinance, the permit should be issued, or if the application is otherwise inadequate. If the Code Enforcement Officer feels the application is insufficient or inadequate, the Code Enforcement Officer shall at once notify the applicant in writing, indicating what necessary information is required to correct the application. If the application is not so corrected, it shall be denied.
 2. Within seven days of the filing of an application for a Building or Use Permit, the Code Enforcement Officer shall approve, deny or refer to the Planning Board for Conditional Use Permit, all such applications. His decision shall be in writing on a form designed for the purpose, and communicated directly to the applicant. One copy of the Code Enforcement Officer's decision shall be filed in the Municipal Office. In cases where the Code Enforcement Officer deems that a Conditional Use Permit is required, he shall also provide a copy of his decision to the Planning Board.
- C. No Building Permit for a building or structure on any lot shall be issued except to the owner of record thereof, or his authorized agent, until the proposed construction or addition of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board. Any application for such a permit shall be accompanied by a plan, showing the actual shape and dimensions of the lot to be built upon.
- D. Applications for permits with their accompanying plans and Building Permits shall be maintained as a permanent record by the Municipal Officers or the Code Enforcement Officer.
- E. A Building Permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted, and if the work or change is not substantially completed within two years of the date which the permit is granted.
- F. Before construction, alteration, relocation, or replacement of any building or part thereof (requiring a Building Permit by any other provision of this Ordinance) shall commence, as specified in Paragraph 6.4, the owner or lessee, or the architect, contractor or builder employed by such owner or lessee shall obtain from the Building Inspector a permit covering such proposed work.

7.3 Plumbing Permit Required.

A. Internal Plumbing Permit

No Building permit shall be issued for any structure or use involving the construction, installation, or alteration of plumbing facilities unless the applicant or his authorized agent obtained an HHE 211 Internal Plumbing Permit, approved by the Licensed Plumbing Inspector has in conformance with the sanitary provisions of this ordinance.

B. Subsurface Wastewater Permit.

No Building Permit shall be issued for any structure or use, which is deemed to generate an increase in subsurface wastewater discharge according to the Maine State Subsurface Wastewater Disposal Code, unless the applicant or his authorized agent has obtained an HHE 200 Subsurface Wastewater Permit, approved by the Licensed Plumbing Inspector, in conformance with the sanitary provisions of this ordinance.

7.4 Fee.

No building permit shall be issued by the Code Enforcement Officer without payment to the Town of Denmark of a fee according to the following schedule:

A. The minimum permit fee shall be \$40.00.⁴

B. All residential dwellings:

1. Finished interior \$0.22 per square foot.
2. Unfinished interior \$0.17 per square foot.

C. All commercial dwellings:

1. Finished interior \$0.25 per square foot.
2. Unfinished interior \$0.20 per square foot.

Finished interior spaces are habitable areas with finished walls, such as living rooms, bedrooms, kitchens, retail office spaces, storage spaces with finished walls, etc.

Unfinished interior space includes all areas where studs are uncovered or foundation walls are showing, such as unfinished basements, sheds, barns, garages, etc.

D. Alterations of any building: \$4.00 per thousand or a minimum of \$40.00. The Code Enforcement Officer may require written cost estimates or invoices from contractors to justify the declared cost of improvements.

E. Structures other than buildings (e.g. towers, swimming pools) \$4.00 per thousand dollars or a minimum of \$40.00. The Code Enforcement Officer may require written cost estimates to justify declared costs.

F. There shall be no fee for the replacement of structures destroyed by fire or act of nature provided the replacement structure is in the same location and is no larger in any dimension than the original structure and reconstruction started within one year of destruction.

G. Demolition or relocation: \$40.00 permit fee.

H. Signs: \$40.00 each.

⁴Amended at the June 4, 2016 Annual Town Meeting

When work has begun prior to issuance of a permit, the fee for the permit shall double and the Town reserves the right to pursue any other remedies available to it under applicable laws.

7.5 Certificate of Approved Use Required.

The Code Enforcement Officer shall issue a Certificate of Approved Use unless there is evidence that the use does not comply with the Denmark Zoning Ordinance.

7.6 Legal Action and Violations.

When any violation of any provision of this Ordinance shall be found to exist, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

7.7 Fines.

Any person, firm, or corporation being the owner or having control or use of any building or premises who violates any of the provisions of this Ordinance, shall be guilty of a misdemeanor and on conviction shall be fined according to Title 30-A MRSA § 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense.

7.8 Board of Appeals.

A. Establishment.

A Board of Appeals is hereby established in accordance with State law and the provisions of this Ordinance.

1. Appointment and Composition.

- a. The Board of Appeals shall be appointed by the Municipal Officers and shall consist of 7 members. All of whom shall be legal residents of Denmark; they shall serve staggered terms of 3 years. The Board shall elect annually a chairperson from its membership. The secretary shall keep 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 by public record. A quorum shall consist of 4 members. New appointments beginning in 1988, shall be 2 members for 1 year, 2 members for 2 years, and 3 members for 3 years. Thereafter all appointments shall be for 3 years.
- b. A Municipal Officer or Planning Board member may not serve as a member.
- c. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority of the members, except the member who is being challenged.
- d. A member of the Board may be dismissed for cause by the Municipal Officers upon written charges and after public hearing.
- e. These above provisions shall be included in the Board of Appeals Bylaws.

B. Powers and Duties

1. Administrative Appeals.

To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination by the Code Enforcement Officer or the Planning Board in the enforcement of

this Ordinance. The action of the Code Enforcement Officer or the Planning Board may be modified or reversed by the Board of Appeals, by concurring vote of a majority of those present and voting, but at least 3 members of the Board.

2. Variance Appeals.

- a. To hear and decide, upon appeal, in specific cases where a relaxation of the terms of this Ordinance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.
- b. As used in this Ordinance, a variance is authorized only for height, area, setbacks and size of structures or size of yards or open spaces. Establishment or expansion otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconformities in the Zoning District or uses in adjoining Zoning Districts.
- c. The board may grant a variance to an owner of a 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. For purposes of this subsection, a disability has the same meaning as a physical or mental handicap under 5 MRSA, § 4553 and the term “structures necessary for access to or egress from the dwelling” is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.
- d. The Board of Appeals shall grant a variance only by a concurring vote of a majority of those present and voting, or at least 3 members, whichever is greater. In so doing, the Board may prescribe conditions and safeguards as are appropriate under this Ordinance.

C. Appeal Procedure.

1. All applications for appeals shall be based upon a written decision of the Code Enforcement Officer or Planning Board.
2. Administrative appeals and variance appeals shall be heard and decided upon by the Board of Appeals in accordance with the provisions of this Ordinance. The fee for an administrative appeal or a variance appeal shall be \$55.00 plus the cost of certified mailings for each property owner within 500 feet of property to be notified to be calculated by the Secretary of the Board of Appeals. The applicant shall be responsible for any additional costs to the Board for hearing the appeal.⁵
3. Variance Appeals shall proceed from the decision of the Code Enforcement Officer to the Board of Appeals to the Superior Court according to State law.
4. Code enforcement violations appeals involving either the resource protection or shoreland zones shall proceed from the decision of the Code Enforcement Officer to the Superior Court according to State law.⁶

⁵ Amended at the June 2, 2012 Annual Town Meeting

⁶ Amended at the June 2, 2012 Annual Town Meeting

5. When an appeal is filed, the application shall be reviewed for completeness within ten days of the initial filing date by the Chairman of the Board of Appeals. If that review establishes the application is complete, a public hearing on the application shall be scheduled within 35 days of the determination of completeness. Where information is lacking or inadequate at the time of submission and the eminency cannot be remedied immediately, such as by correction of a mere clerical oversight, the applicant shall be notified in writing of the incompleteness, and no application shall be scheduled for a public hearing to be held within 35 days of the date of the determination the application has been completed. The appeal shall be filed with the Board of Appeals on forms approved by the Board, and the aggrieved person shall specifically set forth on the form the grounds for the appeal.
6. The Board of Appeals shall hold a public hearing on the appeal within 35 days of the acceptance by the Board of Appeals of a completed appeals application. The Board of Appeals shall notify the Code Enforcement Officer, the Planning Board , and Municipal Officers at least 10 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 7 days in advance in a newspaper of general circulation in the area.
7. In appeals involving the use of buildings or premises, the Board of Appeals shall notify by certified mail the appellant and the owners of all property within 500 feet of the property, including across roads and across waterbodies less than 200 feet wide, at least 7 days in advance of the hearing. The notice shall state the nature of the appeal and of the time and place of the public hearing.
8. In the case of appeals involving space and bulk regulations or interpretation, the Board of Appeals shall notify by certified mail the appellant and only the owners of abutting property for which an appeal is taken, at least 7 days in advance of the hearing. The notice shall state the nature of the appeal and of the time and place of the public hearing thereon. For the purpose of this section, abutting properties shall include properties across a road or waterbodies less than 200 feet wide, from the property for which the appeal is made.
9. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
10. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
11. The Code Enforcement Officer or designee shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other materials deemed appropriate for an understanding of the appeal.
12. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
13. Within 35 days of the public hearing, the Board of Appeals shall reach a decision on an appeal and shall within 7 days of its decision inform, in writing, the appellant, the Code Enforcement Officer, the Planning Board, and Municipal Officers of its decision and its reasons therefore, as prescribed in 30-A MRS §2691(3)(F).

14. Upon notification of the granting of an appeal by the Board of Appeals, the Code Enforcement Officer shall immediately issue a Building Permit in accordance with the conditions of the approval.
15. A copy of all variances granted by the Board of Appeals within the shoreland zone shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision.
16. A variance under the provisions of this Ordinance secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within one year of the date on which the appeal is granted, and if the work or change is not substantially completed within two years.
17. The Board of Appeals shall prepare, and the applicant shall record in the Oxford County Registry of Deeds, a certificate of variance indicating the name of the current property owner, identifying the lot by reference to the last recorded deed in its chain of title, and indicating that a variance was granted, including any condition on the variance and the date on which the variance was granted. The variance shall be invalid until the certificate is recorded and shall be void if the certificate is not recorded within 90 days of the date of the final written approval.
18. If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board substantial new evidence shall be brought forward or unless the Board finds than an error, mistake or misunderstanding of facts occurred.
19. Appeal of Board's Decision. Any decision of the Board of Appeals may be appealed to Superior Court within 45 days after the decision is rendered according to the Maine Rules of Civil Procedure, Rule 80B.

D. Application Procedure.

1. A person informed by the Code Enforcement Officer that a variance is needed may file an application with the Appeals Board. All applications shall be returned to the Code Enforcement Officer at least 10 days prior to the next Appeals Board meeting. The application shall be accompanied by a plot plan and show the following requirements unless the Appeals Board waives these requirements:
 - a. The name and address of the applicant (or his/her authorized agent);
 - b. A copy of the deed or other record of right, title or interest in the property;
 - c. The assessor's map and lot number;
 - d. The section of the ordinance in which the variance request relates to;
 - e. The road or street name;
 - f. A date, scale and north arrow;
 - g. The zoning district where the premises in question is located;
 - h. All existing and proposed setback dimensions;

- i. All the landscape areas, fencing, and size and type of plant material upon the premises in question;
- j. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
- k. Complete building elevation drawings of any proposed structures;
- l. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed.

7.9 Planning Board

A. Procedure.

1. All applications for conditional use or applications for review or approval of the Planning Board shall be based upon a written decision of the Code Enforcement Officer.
2. A fee of \$55.00 plus the cost of certified mailings for each property owner within 500 feet of property to be notified will accompany applications for conditional use permits; the cost of the certified mailings to be determined by the Secretary of the Planning Board. Applications for conditional use permits shall be heard and decided upon by the Planning Board in accordance with the provisions of this Ordinance. The applicant shall be responsible for any additional costs to the Board for reviewing the application.⁷
3. A \$55.00 fee shall accompany applications for review and approval of the Planning Board as required under this Ordinance.
4. Conditional Use appeals shall proceed from the Planning Board to the Superior Court according to State law.
5. All applications and any supporting documents shall be submitted to the Code Enforcement Officer at least ten days prior to the Planning Board meeting at which they are scheduled to be considered.

B. Conditional Use Permits.

1. Authorization.

- a. The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits in accordance with State law and the provisions of this Ordinance. Conditional Use Permits shall be requested for any new use or new structure, addition to or alteration of any existing use or structure in the Conditional Use categories, the resumption of any Conditional Use on a continual commercial basis which has been discontinued for at least 5 years, or to any substantial increase or expansion in the volume or intensity of usage of a Conditional Use. No changes shall be made in any Conditional Use Plan approved by the Planning Board without approval of that change by the Planning Board.
- b. A Conditional Use Plan meeting the standards of this Ordinance shall be reviewed and approved by the Planning Board before any use may be approved, or before any Building Permit may be issued for any new building or construction. In the case of proposed resumption of Conditional Uses which have been discontinued for at least

⁷ Amended at the June 2, 2012 Annual Town Meeting

five (5) years, Planning Board approval shall be required before such uses may be resumed.

- c. When the effects of proposed new Conditional Uses or resumption of former Conditional Uses are uncertain, the Planning Board, after notification to the applicant, shall employ such independent consultant as necessary, at the expense of the applicant, to ensure compliance with all requirements of this Ordinance. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking. All costs incurred by the Planning Board in review of a Conditional Use application shall be borne by the applicant and a permit shall not be issued until these costs are paid.

2. Powers and Duties.

The Planning Board shall hear and approve, approve with modifications or conditions, or disapprove all applications for Conditional Use Permits. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this Ordinance.

3. Application Procedure.

- a. A person informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board on forms provided for the purpose. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale 1" equals of not more than 50', and show the following information unless the Planning Board waives these requirements:
 - i. The name and address of the applicant (or his authorized agent) plus the name of the proposed development;
 - ii. A copy of the deed or other record of right, title or interest in the property;
 - iii. The assessor's map and lot number;
 - iv. A date, scale and north arrow;
 - v. The zoning district where the premises in question is located;
 - vi. All existing and proposed setback dimensions;
 - vii. All landscaped areas, fencing, and size and type of plant material upon the premises in question;
 - viii. All proposed signs and their size, location and direction of illumination;
 - ix. The location of all existing and/or proposed buildings, if any, with dimensions showing finished grade elevations at all corners and entrances, plus all existing or proposed parking areas, driveways and access from a public street;
 - x. Complete building elevation drawings of any proposed structures, to show their height and bulk in relation to structures on adjacent lots;
 - xi. All existing contours and proposed finished grade elevations of the entire site, and the system of drainage proposed to be constructed; and
 - xii. An appropriate place for the signatures of the Planning Board.

The Board may waive the above submission requirements only when it finds that the required information is not necessary for making a determination regarding the factors in section 7.8.C.4.

- b. Within 35 days of determining a complete application has been submitted, and before taking action on any application, the Planning Board shall hold a public hearing on the application. The Planning Board shall notify the Code Enforcement Officer, Municipal Officers, and the Board of Appeals, at least 10 days in advance, of the time and place of the hearing, and shall publish notice of the hearing at least 7 days in advance in a newspaper of general circulation in the area.
- c. The Board shall notify, by certified mail, the applicant and the owners of all property within 500 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing.
- d. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
- e. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause.
- f. The Code Enforcement Officer or designee shall attend all hearings and may present to the Planning Board all plans, photographs, or other materials deemed appropriate for an understanding of the application.
- g. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
- h. Within 35 days of the public hearing, the Planning Board shall make findings of fact and conclusions and approve, approve with conditions or deny Conditional Use application. The Planning Board shall inform, in writing, the applicant, the Code Enforcement Officer and Municipal Officers of its decision and its reasons therefore within seven days of making its decision.
- i. Upon notification of the decision of the Planning Board the Code Enforcement Officer, as instructed, shall immediately issue, issue with conditions prescribed by the Planning Board, or deny a Building Permit.
- j. A Conditional Use Permit secured under the provisions of this Ordinance by vote of the Planning Board shall expire if the work or change involved is not commenced within one year of the date on which the Conditional Use is authorized, and if the work or change is not substantially completed within two years.

4. Factors Applicable to Conditional Uses.

Prior to granting approval to an application for a Conditional Use Permit the Planning Board shall make findings of fact and determination that:

- a. The proposed use and/or structure will maintain safe and healthful conditions;
- b. The proposed use and/or structure will prevent and control water pollution and sedimentation;

- c. The proposed use and/or structure will not have an adverse impact on spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- d. The proposed use and/or structure will conserve shore cover, visual as well as actual points of access to inland waters and natural beauty;
- e. Traffic access to the site meets the standards contained in this Ordinance, and traffic congestion and safety concerns have been addressed in accordance with the performance standards in this Ordinance;
- f. The proposed use and/or structure will comply with the town's flood plain management ordinance;
- g. Adequate provision for the disposal of all solid waste and wastewater produced has been made;
- h. The proposed use and/or structure will not have an unreasonable adverse impact on water bodies including the export of phosphorus off the site;
- i. Adequate provisions for the management of storm water have been made;
- j. Existing vegetative cover will be preserved to the extent feasible;
- k. Adequate provisions for the control of soil erosion and sedimentation have been made;
- l. There is adequate water supply to meet the demands of the proposed use;
- m. Adequate provision for the transportation, storage and disposal of any hazardous materials has been made;
- n. The use is consistent with the policies of the Comprehensive Plan;
- o. The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor, visual impact, and the like;
- p. All standards in this Ordinance applicable to the proposed use will be met.

5. Conditions Attached to Conditional Uses.

- a. Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance and to assure that the standards of this Ordinance are met. Violation of any of these conditions shall be a violation of this Ordinance. Such conditions may include, but are not limited to, specifications for; type of vegetation, increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational controls; professional inspection and maintenance; sureties; deed restrictions, restrictive covenants; locations of piers, docks, parking and sign, type of construction; or any other conditions necessary to fulfill the purposes of this Ordinance.
- b. In order to secure information upon which, to base its determination, the Planning Board may require the applicant to furnish, in addition to the information required for a Conditional Use Permit, the following information:

- i. A plan of the area showing contours at intervals to be determined by the Planning Board and referred to Mean Sea Level, high water elevation, groundwater conditions, bedrock, slope and vegetative cover.
- ii. A soils report identifying the soils boundaries the names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Natural Resources Conservation Service National Cooperative Soil Classification.
- iii. Other pertinent information necessary to determine if the proposed use meets the provisions of this Ordinance.

In evaluating each application the Planning Board may request the assistance of the Regional Planning Commission, County Soil and Water Conservation District and any other State or Federal agency which can provide technical assistance.

C. Other permits requiring approval of the Planning Board.

1. The following permits require approval of the Planning Board:
 - a. Placing of a foundation under a non-conforming structure in the 100-foot buffer zone within the shoreland-zoning district, in accordance to section 1.4 C.1.c of this Ordinance.
 - b. Relocation, reconstruction or replacement of a non-conforming structure in the 100-foot buffer zone within the shoreland-zoning district, in accordance to Section 1.4 C.4 and Section 1.4 C.5 of this Ordinance.
 - c. Subdivisions.
2. Application shall be submitted in writing on approved forms supplied by the Planning Board.

APPENDIX A
BUFFER STRIP REQUIREMENTS FOR DEVELOPMENTS QUALIFYING FOR
SIMPLIFIED PHOSPHORUS REVIEW

The tables below shall be used to determine the minimum lot size and buffer strip required by Section 5.18.D.1. The assignment of great ponds to each table is based upon the allowable phosphorus export from Table 9-3 in the Denmark Comprehensive Plan. Hydrologic Soil Groups shall be determined either from the maps in the *Soil Survey of the Oxford County Area*, a site evaluation completed for an application for a subsurface wastewater disposal permit, or from a high intensity soil survey conducted by a certified soil scientist. Table 16 of the Soil Survey lists the Hydrologic Soil Group for each soil name and map symbol found in the survey. Table 8 gives a correlation between the soils classifications in the *Maine Subsurface Wastewater Disposal Rules* and Hydrologic Soil Groups.

**Table 1. Development in the Watershed of Granger Pond and Shaking Bog
(0.050-0.059 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	100	110
	B	150	200
	C	not permitted	not permitted
	D	not permitted	not permitted
2 Acres	A	30	45
	B	90	125
	C	150	not permitted
	D	not permitted	not permitted
3 Acres	A	25	25
	B	25	80
	C	25	150
	D	125	not permitted
4 Acres	A	25	25
	B	25	25
	C	25	60
	D	25	225
5 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	45

All lots over 5 acres shall maintain a minimum buffer of 25 feet

**Table 2. Development in the Watershed of Beaver Pond
(0.060-0.069 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	85	100
	B	135	175
	C	not permitted	not permitted
	D	not permitted	not permitted
2 Acres	A	25	70
	B	65	110
	C	100	250
	D	not permitted	not permitted
3 Acres	A	25	25
	B	25	35
	C	25	90
	D	25	not permitted
4 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	100

All lots over 4 acres shall maintain a minimum buffer of 25 feet.

**Table 3. Development in the Watershed of Boston Pond and Pleasant Pond
(0.070-0.079 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	50	75
	B	120	140
	C	not permitted	not permitted
	D	not permitted	not permitted
2 Acres	A	25	25
	B	25	75
	C	25	130
	D	125	not permitted
3 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	100

All lots over 3 acres shall maintain a minimum buffer of 25 feet

**Table 4. Development in the Watershed of Lily Pond, Long Pond, South Basin of Moose Pond, Pickerel Pond, and Sand Pond
(0.080-0.089 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	50	75
	B	120	140
	C	not permitted	not permitted
	D	not permitted	not permitted
2 Acres	A	25	25
	B	25	75
	C	25	130
	D	125	not permitted
3 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	100

All lots over 3 acres shall maintain a minimum buffer of 25 feet

**Table 5. Development in the Watershed of the Perley Pond
(0.100-0.109 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	30	50
	B	90	130
	C	175	not permitted
	D	not permitted	not permitted
2 Acres	A	25	25
	B	25	50
	C	25	70
	D	125	250

All lots over 2 acres shall maintain a minimum buffer of 25 feet.

**Table 6. Development in the Watershed of the Middle Basin of Moose Pond
(0.110-0.119 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	25	45
	B	85	125
	C	135	not permitted
	D	not permitted	not permitted
2 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	175

All lots over 2 acres shall maintain a minimum buffer of 25 feet.

**Table 7. Development in the Watershed of Hancock Pond
(0.130-0.139 lbs/acre/yr)**

<i>Lot Size</i>	<i>Hydrologic Soil Group</i>	<i>Buffer Width (ft)</i>	
		<i>Clearing Restricted</i>	<i>Clearing not Restricted</i>
1 Acre	A	25	25
	B	55	105
	C	80	250
	D	not permitted	not permitted
2 Acres	A	25	25
	B	25	25
	C	25	25
	D	25	50

All lots over 2 acres shall maintain a minimum buffer of 25 feet.

**Table 8. Development in the Watershed of Horseshoe Pond
(greater than 0.150 lbs/acre/yr)**

All lots shall maintain a minimum buffer of 25 feet.

**Table 9. Hydrologic Soil Groups by Soil Profile and Conditions from the Maine Subsurface
Wastewater Disposal Rules**

Soil Profile	Soil Condition						
	AI	AII	AIII	B	C	D	E
1	D	D	C	C	C	C	D
2	D	D	C	B	B	C	D
3	D	D	C	C	C	C	D
4	D	C	C	B	B	C	D
5	D	C	C	B	B	C	D
6	D	C	C	A	B	C	D
7	-	C	C	C	C	C	D
8	D	D	C	C	C	D	D
9	D	D	C	C	C	D	D
10	D	D	C	A	C	D	D
11	D	C	C	B	B	C	D

Official Zoning Map
Adopted:3/11/06
Amended June 6, 2009

Saved in u:Denmark Zoning Ordinance – Amended June 4, 2016