

2007

# Town of East Millinocket Maine Ordinances

East Millinocket, Me.

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## ANIMAL CONTROL ORDINANCE

### SECTION 1. Definitions

- A. "Dog" shall be intended to mean both male and female canines.
- B. "Owner" shall be intended to mean any person(s), firm, association or corporation keeping, owning or harboring a dog.
- C. "At large" shall be intended to mean off the premises of the owner, not under the immediate control of the owner and other persons representing the owner.

### SECTION 2. Running at Large Prohibited

No owner or keeper or any dog shall permit or allow their dog to roam at large at any time. This section shall not be constructed, however, to prevent the use of dogs for legal hunting purposes, field trials or shows or for the use of dogs on farms or residences for any lawful purpose not inconsistent with the intent and provisions of this ordinance.

### SECTION 3. Barking or Howling Dogs

No person shall keep or harbor any dog which is loud, i.e., has frequent or habitual barking, howling or yelping that shall disturb the peace and tranquility of any person or persons.

### SECTION 4. Confinement of Certain Dogs

Dogs of fierce, dangerous or vicious propensities shall be properly confined or tied by the owner in a reasonable manner to prevent harm to the public. Female dogs in heat shall be confined in such a manner as to avoid the creation of a nuisance by other dogs congregating in the area.

### SECTION 5. Tag and Collar

The owners of all dogs shall have tags attached securely to the dogs. When off the premises of the owner, a suitable collar to which the license and rabies immunization tag shall be attached as required by applicable State Law. Also, when off the premises, the dog will be held by a leash which will not exceed eight (8) feet in length.

### SECTION 6. License Required

All dogs kept, harbored or maintained by their respective owners in the Town of East Millinocket shall be licensed in accordance with the appropriate laws of the State of Maine.

### SECTION 7. Enforcement

It shall be the duty of the Municipal Police Officers to enforce all provisions of this ordinance.

#### Penalties

Any owner found violating any of the provisions of this ordinance shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of ten (\$10.00) dollars for each offense. All fines that are assessed shall be recovered for the use of the Town of East Millinocket through the District Court.

### SECTION 8. Effective Date

This ordinance shall be in full force and effect ten days after its passage.

SECTION 9. Proper removal of Canine Excrement

Persons who own or control a dog on any sidewalk, street or publicly owned property shall immediately remove and properly dispose of any excrement by the dog on such property. The regulation relating to cleanup of canine waste shall not apply to any handicapped person who, by reason of his or her handicap is physically unable to comply with the requirements of the provision.

Penalties

Any owner or keeper found in violating Section 9 of this ordinance shall be punished by a fine of not less than ten (\$10.00) dollars and not more than fifty (\$50.00) for each offense. The imposition of a penalty for violation shall not excuse the violation or permit it to continue to exist. This shall constitute a separate offense.

Adopted April 29, 1975

\*Amended September 1978 (leash law)

\*Amended May 16, 2000 (canine excrement disposal)

## BICYCLE ORDINANCE

SECTION 1. No person shall ride or propel any bicycle, skateboard, roller blades or scooters upon any sidewalk.

SECTION 2. No person shall propel any bicycle, skateboard, roller blades or scooters in the Town of East Millinocket except in a careful and prudent manner.

SECTION 3. Persons riding bicycles, skateboards, roller blades or scooters shall obey all traffic rules, and shall turn only at intersections, signal for all turns, keep to the right when meeting and to the left when passing other vehicles.

SECTION 4. No persons shall operate a bicycle or scooter without a hold on the handlebars.

SECTION 5. No person operating a bicycle with only one saddle shall carry any other person on said bicycle.

SECTION 6. It shall be unlawful for any person while riding a bicycle, skateboard, rollerblades or scooter to hold on to another moving vehicle; or connect them together in any way.

SECTION 7. No person shall ride or propel a bicycle, skateboard, rollerblade or scooter on any way at the left or beside any other person riding or propelling a bicycle, skateboard, rollerblade or scooter

SECTION 8. It shall be prohibited to ride or propel a bicycle, skateboard, rollerblades, or scooter in any way in Town after dark, unless the bicycle is equipped with a light attached to the front and visible for a distance of at least two hundred (200) feet and properly lighted, not without a red tail light or reflector visible from the rear for a distance of two hundred (200) feet.

## PENALTIES

Whoever violates any of the above or foregoing rules and regulations may be punished by a fine not exceeding twenty-five (\$25.00) dollars for the first offense and thirty (\$30.00) dollars for each subsequent offense. Violations shall be relieved by paying the maximum fine to the Town Office for the use of the Town.

Adopted August 26, 1947

\*Amended 1994 Bicycle Ordinance Only

\*Amended to include skateboards, rollerblades and scooters – Marcy 27, 2006

## BUSINESS HOURS ORDINANCE

### 1963 TOWN MEETING ARTICLE - 33

To see if the Town will vote any business not included within the exemptions listed in the Public Laws of 1961, Chapter 362 to remain open for business on the days set forth in said chapter.

Adopted March 4, 1963

## DANGEROUS BUILDINGS ORDINANCE

### 1954 TOWN MEETING ARTICLE 2

SECTION 25. When the Municipal Officers of the Town, after personal notice in writing to the owner of any burnt, dilapidated or dangerous building, or by publication in a newspaper in the same county, if any, three weeks successively, otherwise in the state paper, and after a hearing of the matter, adjudge the same to be a nuisance or dangerous, they may make and record an order prescribing what disposal shall be made. The Town Clerk shall deliver a copy of the order to a Constable who will serve the order to the owner, if a resident of the state, with an attested copy and make return of his doings to said Clerk forthright. If the owner, or part owner, is not known, or resides out of the state, such notice shall be given by publication in the state paper, or in a paper published in the county three (3) weeks consecutively.

SECTION 26. Town Officers may order nuisance abated. If no application is made to a Justice of the Supreme Judicial Court or the Superior Court, as is provided, the Municipal Officers of the Town shall cause the nuisance to be abated, removed or altered in compliance with their order, and all expenses shall be repaid to the town within thirty (30) days after demand or may be recovered by such person for an action of money paid.

SECTION 27. Owner may apply to Supreme Judicial or Superior Court. Any owner aggrieved by such order may within thirty (30) days after order, within thirty (30) days after order is made and filed, apply to a Justice of the Supreme Judicial or Superior notice and hearing, affirm, annul or alter the order. If the court is not in session, the action shall be entered on the docket of the preceding term.

SECTION 28. If the court affirms and order, costs will be recovered by the Town. If it wholly annuls an order, costs shall be recovered by the applicant, and if it alters it in part, the court may render judgment as to costs as justice requires.

\*ADOPTED APRIL 30, 1954

## CONSUMER FIREWORKS ORDINANCE

**This ordinance governs the discharge and possession of Fireworks in the Town of East Millinocket, Maine. Other restrictions in regard to the use and sale of fireworks shall be governed by current Maine Law.**

**(Title 8 M.R.S.A. Section 223-A and as amended)**

### **Section A: Definitions**

"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 compound.

The term "fireworks" does not include 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, antique or replica cannons if no projectile is fired.

### **Section B: Requirements**

Fireworks are only permitted to be ignited on property owned by the individuals igniting the fireworks; or with specific written permission from the owner of the property. Fireworks are not permitted to be ignited on any property owned and controlled by the Town of East Millinocket with the exception of Town sponsored events such as Summerfest. Fireworks are not permitted to be ignited on any property owned and controlled by the State of Maine or any other public entity.

Fireworks shall not be ignited within 100 feet of an adjacent property.

Fireworks shall not be ignited by any person under the influence of alcohol or drugs. Any fireworks user found to be impaired by the consumption of alcohol and/or use of drugs shall be in violation of this ordinance.



**Town of East Millinocket**  
**Consumer Fireworks Ordinance**  
**Page 2**

Fireworks are not to be ignited under any conditions if the posted fire danger is greater than Class II. The use of fireworks is strictly prohibited on Class III, IV, and V fire danger days or at times when a red flag fire warning has been issued by the State of Maine Forest Service (Phone: 800-750-9777 or website [www.maine.gov/dacf/mfs/index.shtml](http://www.maine.gov/dacf/mfs/index.shtml)).

**Any individual who ignites fireworks and the property owner where the fireworks are ignited are responsible for any property damage caused by the fireworks.** All firework users are required to have a means of fire extinguishment readily accessible; including, but not limited to, a garden hose or fire extinguisher.

**Section C: Permissible Dates**

Fireworks may be discharged as follows:

July 4<sup>th</sup> – 9 AM to July 5<sup>th</sup> 12:30 AM  
December 31<sup>st</sup> – 9 AM to January 1<sup>st</sup> 12:30 AM  
January 1<sup>st</sup> – 9 AM to 6 PM  
June 28<sup>th</sup> to July 3<sup>rd</sup> – 9 AM to 10 PM  
July 5<sup>th</sup> to July 11<sup>th</sup> – 9 AM to 10 PM  
Summerfest Weekend - 9 AM to 12 PM

**Section D: Special Permits**

A resident property owner (renter may provide owner's signed permit application) may obtain a special permit at the Town Office during regular business hours to ignite fireworks on weekends (Friday, 5 PM – Sunday 5 PM) as allowed by State law. Permits are issued for special nonrecurring one day events and are limited to no more than a four (4) hour time block.

**Section E: Violations and Enforcement**

Failure to comply with any provision set forth in this ordinance shall result in:

1. First Offense: Written warning
2. Second Offense: \$200 fine
3. Each Additional Offense: \$400 fine

All fines shall be paid to the Town of East Millinocket and deposited into the general fund account.

# TOWN OF EAST MILLINOCKET

53 MAIN STREET, EAST MILLINOCKET, ME 04430

## FIREWORKS PERMIT

Date: \_\_\_\_\_

Property Owner Signature: \_\_\_\_\_

Address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Permit Valid From: \_\_\_\_\_

Hours of Permit: \_\_\_\_\_

cc:   Applicant  
      Town Office  
      Police Department  
      Fire Department

## GUN USE ORDINANCE

### 1962 TOWN MEETING ARTICLE 5

To see if the Town will vote to adopt the following bylaw: It shall be unlawful to shoot, fire, or discharge any rifle, shotgun, pistol, air gun or slingshot within the limits of the populated portions of the Town of East Millinocket described as follows, to wit: Being within one thousand (1,000) feet of any dwelling, school, church, house, or building with inhabitants dwelling or attending. This does not apply when:

- (1) A rifle, shotgun or pistol is used in an indoor firing range by individuals or clubs.
- (2) A rifle, shotgun or pistol is used for the protection of life and property.
- (3) Slingshots, air guns and BB guns when used by adults or children less than sixteen (16) years of age under the direct supervision of an adult.

Whoever violates any part of the foregoing rules or regulations, the Chief of Police or any other Police Officer in the Town of East Millinocket may impound the rifle, shotgun, pistol, air gun, BB gun, or slingshot for a period of up to ten (10) days for the first offense, no longer than thirty (30) days for a second offense, and no longer than sixty (60) days for any succeeding offense(s).

Adopted August 20, 1962

## JUNKYARD ORDINANCE

### SECTION 1. DEFINITIONS

“Automobile graveyard” as used in this ordinance will mean a yard, field, house lot or other area used as a place of storage with two or more unregistered, unserviceable, discarded or junked motor vehicles. This would not apply to temporary storage by an establishment of place of business which is engaged primarily in doing auto body repair work.

“Junkyard” as used in this ordinance will mean a yard, field, house lot or other area used as a place of storage for:

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

### SECTION 2. Establishing a “Automobile graveyard or Junkyard”

No “automobile graveyard” or “junkyard” will be established, operated, or maintained or permitted by the owner of any land to be established, operated or maintained without first obtaining a nontransferable permit from the Board of Selectmen of East Millinocket.

SECTION 3. A permit for the establishment of an “automobile graveyard” or “junkyard” will not be issued without the approval of the Board of Selectmen.

SECTION 4. A permit will not be issued until the Board of Selectmen holds a public hearing as set forth in 30 MRSA-2453.

SECTION 5. The charge for an “automobile graveyard” or “junkyard” permit is fifty (\$50.00) dollars. The applicant will also prepay the cost of publishing and posting.

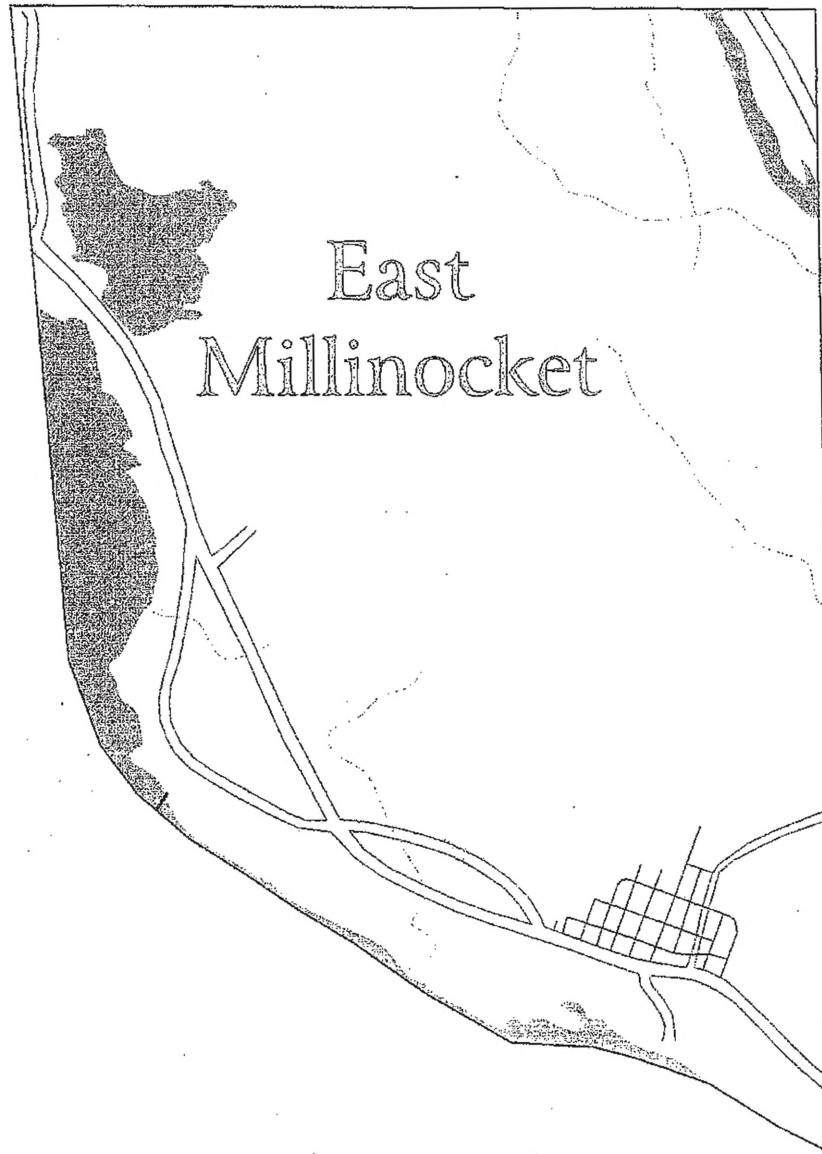
SECTION 6. A permit for an “automobile graveyard” or “junkyard” will be valid only until January 1st of the following year.

SECTION 7. Whoever violates any foundation of this ordinance will be punished by a fine of at least one hundred (\$100.00) dollars, or up to five hundred (\$500.00) dollars. The convicted party will pay any costs incurred by the Town for legal expenses and/or attorney fees. Each day the violation continues will constitute a separate offense.

SECTION 8. It will be the duty of the Municipal Police Officers to enforce all provisions of this ordinance.

Adopted December 28, 1983

# East Millinocket Land Use Ordinance



Prepared by  
Penobscot Valley Council of Governments

# **TOWN OF EAST MILLINOCKET LAND USE ORDINANCE**

## **LAND USE ORDINANCE COMMITTEE**

Anthony Moscone  
Carolyn Bouchard  
James McLean  
Fred Moore, Jr.  
Heather Ackley  
Charles Theriault  
John Miner

*Enacted: May 19, 1997  
Article 18*

**TOWN OF EAST MILLINOCKET  
LAND USE ORDINANCE**

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## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION I: GENERAL PROVISIONS**

#### **A. TITLE**

This Ordinance shall be known as and may be cited as the "Land Use Ordinance of the Town of East Millinocket, Maine", and will be referred to herein as the "Ordinance".

#### **B. AUTHORITY**

This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII of the Maine Constitution and Title 30-A, Section 4352 and Title 38, Section 435 et. seq., of the Maine Revised Statutes Annotated.

#### **C. PURPOSES**

The purposes of the Ordinance are as follows:

1. **COMPREHENSIVE PLAN IMPLEMENTATION:** To implement the policies and recommendations of the East Millinocket Comprehensive Plan;
2. **PROTECTION OF THE GENERAL WELFARE:** To assure the comfort, convenience, safety, health, and welfare of the present and future inhabitants of the Town of East Millinocket;
3. **PRESERVATION OF THE TOWN CHARACTER:** To preserve and protect the character of East Millinocket by dividing the Town into districts according to the use of land and buildings and the intensity of such uses;
4. **PROTECTION OF THE ENVIRONMENT:** To protect and enhance the natural, cultural, and historic resources of the Town from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;
5. **PROMOTION OF COMMUNITY DEVELOPMENT:** To promote the development of an economically sound and stable community;
6. **REDUCTION OF TRAFFIC CONGESTION:** To lessen the danger and congestion of traffic on roads and highways, limit excessive numbers of intersections, driveways, and other friction points, minimize hazards, and ensure the continued usefulness of all elements of the existing transportation systems for their planned function;

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION I: GENERAL PROVISIONS** (Continued)

#### **C. PURPOSES** (Continued)

7. **BALANCING OF PROPERTY RIGHTS:** To protect property rights and values by balancing the rights of landowners to use their land with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance from abutting or neighboring uses;
8. **REDUCTION OF FISCAL IMPACT:** To provide a means of evaluating development proposals to determine their fiscal impacts on the municipality's ability to provide and improve necessary public facilities and services; and
9. **ESTABLISHMENT OF PROCEDURES/STANDARDS:** To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; to provide a public hearing process through which interested persons may raise questions and receive answers regarding how such developments may affect them; and to provide procedures whereby aggrieved parties may appeal decisions made under this Ordinance.

#### **D. APPLICABILITY**

This Ordinance shall apply to all land areas within the Town of East Millinocket. All buildings or structures thereafter constructed, reconstructed, altered, enlarged, or moved, and the uses of buildings and land, including the division of land, shall be in conformity with the provisions of the Ordinance. No existing or future building, structure, or land area shall be used for any purpose or in any manner except as provided for in this Ordinance.

#### **E. CONFLICT WITH OTHER ORDINANCES**

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, that imposing the most restrictive or higher standards shall govern.

#### **F. SEVERABILITY**

In the event that any Section, Sub-Section, or provision of this Ordinance shall be declared by a court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other Section, Sub-Section, or provision of this Ordinance, to this end, the provisions of this Ordinance are hereby declared to be severable.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION I: GENERAL PROVISIONS** (Continued)

#### **G. AMENDMENTS TO ORDINANCE AND OFFICIAL ZONING MAP**

The process for amending the Ordinance and Official Zoning Map is as follows:

1. INITIATION: A proposal to amend this Ordinance or the Official Zoning Map may be initiated by:
  - a. The Planning Board, by majority vote;
  - b. The Town Selectpersons, through a request to the Planning Board; and by
  - c. The Public, through written petition to the Planning Board, who shall meet with the petitioners within 30 days to discuss and vote on the merits of said petition. Following a majority vote of the Planning Board, said amendment shall be initiated.
2. PROCESS OF ADOPTION: The process to be followed in adopting an amendment to the Ordinance or the Official Zoning Map is as follows:
  - a. Proposed amendments must first be submitted to the Planning Board for their consideration;
  - b. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment. The public hearing on the proposed amendment must be held at least thirty (30) days prior to the regular or special town meeting;
  - c. Notice of the public hearing shall be posted at least ten (10) days in advance of the hearing in three conspicuous places, one of which must be in a newspaper of general circulation in the area. Said notice shall include, but not be limited to the following information: (a) date, time and place of said hearing; (b) a summary or map (when indicated) of the proposed amendment; (c) a list (when indicated) of the proposed conditions or restrictions;
  - d. The Planning Board shall make its official report at a Selectpersons (30) days prior to the regular or special town meeting;
  - e. Enactment of a proposed amendment shall require a majority vote at an Annual or Special Town Meeting.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION I: GENERAL PROVISIONS** (Continued)

#### **H. ANNUAL ADMINISTRATIVE REVIEW**

The Code Enforcement Officer, Planning Board, and Board of Appeals each shall report annually, in the month of November, to the Town Selectpersons on their respective experience with the administration of this Ordinance during the previous year. Their reports to the Selectpersons shall include any recommended amendments they may have that would:

1. Enhance their ability to more effectively meet their respective administrative responsibilities under this Ordinance; and
2. Enhance the implementation of the purposes of this Ordinance contained in Sub-Section C, paragraphs 1 through 9, above.

Failure of any person or Board to comply with this provision shall not affect the validity or enforceability of this Ordinance in any way.

#### **I. EFFECTIVE DATE**

The effective date of this Ordinance or any amendments thereto shall be the thirtieth day following its/their adoption at a Town Meeting. A copy of the Ordinance, certified by the Town Clerk shall be on file at the Town Offices.

#### **J. REPEAL OF PRIOR ORDINANCE**

The existing Land Use Ordinance of the Town of East Millinocket, Maine, as amended, is repealed as of the effective date of this Ordinance. The adoption of this Ordinance, however, shall not affect nor prevent any pending or future prosecution of, or action to abate, any violation of the Ordinances repealed by this Section, if the violation is also a violation of this provisions of this Ordinance. It is further the intention and direction of this Section that if this Ordinance is, held to be invalid or void in its entirety, that the Ordinances repealed by this Section shall be automatically revived.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS**

#### **A. BURDEN OF PROOF**

The burden of establishing that any non-conforming structure, use, or lot is a legal existing non-conforming use as defined in this Ordinance shall, in all instances, be upon the owner of such non-conforming structure, use or lot and not upon the Town of East Millinocket.

#### **B. CONVERSION TO CONFORMANCE ENCOURAGED**

Owners of all existing non-conforming structures and uses shall be encouraged to convert such existing non-conforming structures and uses to conformance wherever possible and shall be required to convert to conforming status as required by this Ordinance.

#### **C. CONTINUANCE**

The use of any building, structure, or land, which is made non-conforming by reason of the enactment of this Ordinance, or which shall be made non-conforming by reason of a subsequent amendment, may be continued, subject to the following provisions:

##### **1. EXISTING NON-CONFORMING USES OF LAND**

Continuance of non-conforming uses of land shall be subject to the following provisions:

- a. No such existing non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than that occupied at the effective date of this Ordinance, or any amendment thereto;
- b. If any such existing non-conforming use of land ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of land shall conform to the regulations specified by this Ordinance for the district in which such land is located; and
- c. An existing non-conforming use may be moved within the boundaries of the lot provided that the Planning Board finds that the change in location on the lot is more appropriate as regards:
  1. Location and character;
  2. Fencing and screening;
  3. Landscaping, topography, and natural features;
  4. Traffic and access;
  5. Signs and lighting; and/or
  6. Potential nuisance.



## Land Use Ordinance of the Town of East Millinocket

### SECTION II: NON-CONFORMING STRUCTURES USES AND LOTS (Continued)

#### C. CONTINUANCE (Continued)

##### 2. EXISTING NON-CONFORMING STRUCTURES

Continuance of existing non-conforming structures shall be subject to the following provisions:

- a. No such structure shall be enlarged or altered in any way that increases its non-conformity;
- b. Should any structure, exclusive of the foundation, be destroyed or damaged by any means, exclusive of planned demolition, said structures may be rebuilt on the existing foundation to the dimensions of the structure which was destroyed provided rebuilding is begun within one year; and
- c. An existing non-conforming structure may be moved within a lot in a manner which would decrease its non-conformity in terms of setback requirements, provided that the Planning Board finds that the change in location is more appropriate as regards to:
  1. Location and character;
  2. Fencing and screening;
  3. Landscaping, topography, and natural features;
  4. Traffic and access;
  5. Signs and lighting; and/or
  6. Potential nuisance.

##### 3. EXISTING NON-CONFORMING USES OF STRUCTURES

Continuance of an existing non-conforming use of a structure shall be subject to the following provisions:

- a. No existing structure devoted to a non-conforming use shall be enlarged or extended;
- b. Any existing non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of the adoption or amendment of this Ordinance, but no such uses shall be extended to occupy any land outside such building;

## Land Use Ordinance of the Town of East Millinocket

### SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Continued)

#### C. CONTINUANCE (Continued)

##### 3. EXISTING NON-CONFORMING USES OF STRUCTURES (Continued)

- c. Any existing non-conforming use of a structure or premises may be changed to another non-conforming use provided that the Planning Board shall find that the proposed use is more appropriate to the district than the existing non-conforming use;
- d. If a non-conforming use of a structure or premises is superseded by a permitted use, the non-conforming use shall not thereafter be resumed;
- e. If any such non-conforming use of a structure ceases for any reason for a period of more than twelve (12) consecutive months, any subsequent use of such structure shall conform to the regulations specified by this Ordinance for the district in which such structure is located; and
- f. A structure housing an existing non-conforming use may be moved, within the lot, in a manner which would be a more appropriate location, provided that the Planning Board finds that the change in location is more appropriate as regards to:
  - 1. Location and character;
  - 2. Fencing and screening;
  - 3. Landscaping, topography, and natural features;
  - 4. Traffic and access;
  - 5. Signs and lighting; and
  - 6. Potential nuisance

##### 4. CONSTRUCTION BEGUN PRIOR TO ORDINANCE

This Ordinance shall not require any change in the plans, construction, size, or designated use for any building, structure, or part thereof for which a completed application for a local permit has been made or a permit has been issued and upon which construction has been lawfully commenced prior to the adoption or amendment of the Ordinance. Such construction shall start within sixty (60) days after the issuance of such permit.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION II: NON-CONFORMING STRUCTURES, USES AND LOTS (Continued)**

#### **D. NON-CONFORMING LOTS OF RECORD**

A single parcel of land, the legal description of which or the dimensions of which are recorded on a document or map on file with the Registry of Deeds which at the effective date of adoption or subsequent amendments of this Ordinance, does not meet the lot area or width requirements or both, of the district in which it is located, may be built upon as an existing non-conforming lot of record. Lots existing that may be contiguous with any other lot in the same ownership, must be combined to meet the provisions of this Ordinance.

#### **E. TRANSFER OF OWNERSHIP**

Ownership of land and structures which remain lawful but become non-conforming by the adoption or amendment of the Ordinance may be transferred and the new owner may continue the non-conforming uses subject to the provisions of this Ordinance.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION III: ESTABLISHMENT OF DISTRICTS**

#### **A. DISTRICTS ESTABLISHED**

For the purposes of this Ordinance, the Town of East Millinocket is hereby divided into the following Districts:

1. Residential Development District (RD)
2. Commercial District (C)
3. Industrial District (ID)
4. Industrial Park District (IPD)
5. Aquifer Protection District (AP)
6. Rural District (R)

#### **B. STANDARDS ESTABLISHING DISTRICTS**

##### **1. RESIDENTIAL DEVELOPMENT DISTRICT (RD)**

- a. The purpose of the Residential Development District (RD) is to stabilize and protect the essential characteristics of a variety of housing types and housing opportunities. The District will provide for medium density residential growth in such a manner and at such locations as are compatible with existing development and the ability of the community to provide essential services and utilities.
- b. Areas designated as being the Residential Development District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

##### **2. COMMERCIAL DISTRICT (C)**

- a. The purpose of the Commercial District (C) is to accommodate the daily or frequent shopping needs of the citizens of East Millinocket. The District will preserve the character of the existing downtown area as the focal point of business and service activities within the service area of existing public sewer and water utilities.
- b. Areas designated as being the Commercial District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

**Land Use Ordinance of the Town of East Millinocket**

**SECTION III: ESTABLISHMENT OF DISTRICTS** (Continued)

**B. STANDARDS ESTABLISHING DISTRICTS** (Continued)

3. INDUSTRIAL DISTRICT (ID)

- a. The purpose of the Industrial District (ID) is to accommodate all industrial and large scale commercial development. This District will provide for existing industrial development and provide for a diversification from traditional industrial uses.
- b. Areas designated as being the Industrial District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

4. INDUSTRIAL PARK DISTRICT (IPD)

- a. The purpose of the Industrial Park District (IPD) is to identify an appropriate parcel of land which was created to provide for the development of an industrial park. The District is intended to provide an area for commercial and industrial development.
- b. Areas designated as being the Industrial Park District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

5. AQUIFER PROTECTION DISTRICT (AP)

- a. The purpose of the Aquifer Protection District (AP) is to protect East Millinocket's sand and gravel aquifer. This District is intended to limit development within the identified area which will ensure the protection and preservation East Millinocket's drinking water supply.
- b. Areas designated as being the Aquifer Protection District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION III: ESTABLISHMENT OF DISTRICTS** (Continued)

#### **B. STANDARDS ESTABLISHING DISTRICTS** (Continued)

##### **6. RURAL DISTRICT (R)**

- a. The purpose of the Rural District is to protect those areas of the community which are not appropriate for development due to their location and distance from municipal facilities and services.
- b. Areas designated as being the Rural District are illustrated on the Official Zoning Map of East Millinocket and described in the metes and bounds description in Appendix A of this Ordinance.

#### **C. OFFICIAL ZONING MAP**

Districts established by this Ordinance are defined and bounded as shown on the "Official Zoning Map of East Millinocket, Maine" which together with its notations and amendments, from time to time, is hereby made a part of this Ordinance.

The official copy of the map shall be that map which bears the certification that it is true and correct, signed by the Chairman of the Planning Board and attested by the Town Clerk, and on file in the office of the Town Clerk.

#### **D. INTERPRETATION OF DISTRICT BOUNDARIES**

Where uncertainty exists as to boundary lines of Districts as shown on the "Official Zoning Map of East Millinocket, Maine" or as described in the metes and bounds description, the following rules of interpretation shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, public utilities or right-of-ways shall be construed as following such center lines;
2. Boundaries indicated as approximately following property lines shall be construed as following property lines;
3. Boundaries indicated as being the extension or center lines of streets shall be construed to be the extension of such center lines;
4. Boundaries indicated as being the extension of property lines shall be construed as extensions of such property lines;

**Land Use Ordinance of the Town of East Millinocket**

**SECTION III: ESTABLISHMENT OF DISTRICTS** (Continued)

**D. INTERPRETATION OF DISTRICT BOUNDARIES** (Continued)

5. Boundaries indicated as being parallel to or extension of features listed above shall be so construed. Distances not specifically indicated on the official map shall be determined by the metes and bounds description.
6. Where physical or cultural features existing on the ground are at variance with those shown on the official map or described in the metes and bounds description, or in other circumstances where uncertainty exists with respect to the location of a boundary, the Planning Board shall interpret the district boundaries.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION IV: SCHEDULE OF USES**

#### **A. ACTIVITIES DESCRIBED**

A matrix listing the uses permitted in the various Districts, under this Ordinance begins on page 15.

The various land uses contained in the matrix are organized according to the following eight (8) activity classifications:

1. Non-Commercial Recreational Activities
2. Resource Management Activities
3. Resource Extraction Activities
4. Residential Activities
5. Institutional Activities
6. Commercial Activities
7. Industrial Activities
8. Transportation and Utilities

#### **B. SYMBOLS USED IN SCHEDULE OF USES**

The following symbols contained in the Schedule of Uses have the following meanings:

##### **1. DISTRICT SYMBOLS**

<b>SYMBOL</b>	<b>DESCRIPTION</b>
<b>RD</b>	<b>Residential Development District</b>
<b>C</b>	<b>Commercial District</b>
<b>ID</b>	<b>Industrial District</b>
<b>IPD</b>	<b>Industrial Park District</b>
<b>AP</b>	<b>Aquifer Protection District</b>
<b>R</b>	<b>Rural District</b>

##### **2. PERMIT SYMBOLS**

<b>SYMBOL</b>	<b>DESCRIPTION</b>
<b>Y</b>	<b>Uses Allowed Without a Permit</b>
<b>N</b>	<b>Uses Prohibited Within District</b>
<b>C</b>	<b>Use Requires a Code Enforcement Permit</b>
<b>P</b>	<b>Use Requires a Planning Board Permit</b>



**Land Use Ordinance of the Town of East Millinocket**

**SECTION IV: SCHEDULE OF USES** (Continued)

**C. USES SUBSTANTIALLY SIMILAR TO PERMITTED USES MAY BE PERMITTED**

1. **USES ALLOWED WITHOUT A PERMIT:** Uses substantially similar to those allowed without a permit, but are not listed in the Schedule of Uses, may be permitted upon a ruling by the Code Enforcement Officer that such use is substantially similar to such uses.
2. **USES REQUIRING A CODE ENFORCEMENT OFFICER PERMIT:** Uses substantially similar to those requiring a Code Enforcement Officer Permit, but which are not listed in the Schedule of Uses, may be permitted by the Code Enforcement Officer.
3. **USES REQUIRING A PLANNING BOARD PERMIT:** Uses substantially similar to those requiring a Planning Board Permit, but which are not listed in the Schedule of Uses, may be permitted by the Planning Board.

**D. USES SUBSTANTIALLY SIMILAR TO PROHIBITED USES ARE PROHIBITED**  
Uses substantially similar to any uses listed as a Prohibited Use in the Schedule of Uses, shall be prohibited.

**E. COMPLIANCE WITH PERFORMANCE STANDARDS REQUIRED**

All uses permitted must occur and be maintained in compliance with the applicable requirements and performance standards contained in Section V.

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

#### F. SCHEDULE OF USES

Activities/Districts	RD	C	ID	IPD	AP	R
<b>1. NON-COMMERCIAL RECREATIONAL ACTIVITIES</b>						
a) Primitive recreational uses, including fishing, hunting, hiking, snowshoeing, cross country skiing, photography, and wildlife study;	Y	Y	Y	Y	Y	Y
b) Public parks and recreation facilities;	C	C	C	C	C	C
c) Trails, provided they are constructed and maintained so as to avoid sedimentation of water bodies;	Y	Y	Y	Y	Y	Y
d) Motorized vehicular traffic on roads and trails, and snowmobiling;	Y	Y	Y	Y	Y	Y
e) Accessory uses and structures that are essential for the exercise of use listed above;	Y	Y	Y	Y	Y	Y

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

Activities/Districts		RD	C	ID	IPD	AP	R
<b>2. RESOURCE MANAGEMENT ACTIVITIES</b>							
a)	Wildlife/fishery management practices;	Y	Y	Y	Y	Y	Y
b)	Emergency operations conducted for the public health, safety , or general welfare, such as resource protection, law enforcement, and search and rescue operations;	Y	Y	Y	Y	Y	Y
c)	Surveying and other resource analysis;	Y	Y	Y	Y	Y	Y
d)	Forest management activities, <u>not including</u> timber harvesting, pesticide and fertilizer application;	Y	Y	Y	Y	Y	Y
e)	Agricultural management activities, <u>not including</u> pesticide and fertilizer application;	Y	Y	Y	Y	Y	Y
f)	Mineral exploration to discover or verify the existence of mineral deposits, including the removal of specimens or trace quantities, provided such exploration is accomplished by methods of hand sampling, including panning, hand test boring, diggings, and other non-mechanized methods which create minimal disturbance and take reasonable measures to restore the disturbed area to its original condition;	Y	Y	Y	Y	Y	Y
g)	Non-commercial structures for scientific, educational, or nature observation purposes, which are not of a size or nature which would adversely affect the resources protected by the district in which it is located;	Y	Y	Y	Y	Y	Y
h)	Accessory uses and structures;	Y	Y	Y	Y	Y	Y

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

Activities/Districts	RD	C	ID	IPD	AP	R
<hr/>						
<b>3. RESOURCE EXTRACTION ACTIVITIES</b>						
a) Commercial timber harvesting;	N	P	P	N	N	P
b) Production of commercial agricultural products;	N	P	P	P	N	P
c) Mineral extraction for road purposes only, affecting an area of less than 2 acres in size;	P	P	P	N	N	P
d) Mineral extraction operations for any purpose affecting an area 2 acres or greater in size;	P	P	P	N	N	P
e) Filling, grading, draining, dredging or alteration of water table or water level, not including individual wells;	P	P	P	P	N	P
f) Accessory use and structures that are essential for the exercise of uses listed above;	P	P	P	P	N	P

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

#### F. SCHEDULE OF USES

Activities/Districts	RD	C	ID	IPD	AP	R
<hr/>						
<b>4. RESIDENTIAL ACTIVITIES</b>						
a) Single- Family Detached Dwelling;	C	C	N	N	N	N
b) Single-Family Mobile Homes;	C	C	N	N	N	N
c) Multi-Family Dwelling: Duplexes;	C	C	N	N	N	N
d) Multi-Family Dwelling: 3 or more families, including apartments;	C	C	N	N	N	N
e) Mobile Home Park;	P	P	N	N	N	N
f) Nursing Home/Boarding Care Facility;	C	C	N	N	N	N
g) Home Occupations;	C	C	N	N	N	N
h) Accessory uses or structures that are essential for the exercise of uses listed above;	C	C	N	N	N	N

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

#### F. SCHEDULE OF USES

Activities/Districts	RD	C	ID	IPD	AP	R
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#### 5. INSTITUTIONAL ACTIVITIES

a)	Hospital and Medical Clinic;	C	C	N	N	N	N
b)	Government Facilities and Services;	C	C	N	N	N	N
c)	Public Schools;	C	C	N	N	N	N
d)	Private Schools (under 15 students);	C	C	N	N	N	N
e)	Day Care Centers;	C	C	N	N	N	N
f)	Churches;	C	C	N	N	N	N
g)	Cemetery;	C	C	N	N	N	N
h)	Fraternal Orders and Service Clubs;	C	C	N	N	N	N
i)	Post Secondary Education Facility;	C	C	N	P	N	N
j)	Accessory use and structures that are essential for the exercise of uses listed above;	C	C	N	N	N	N

# Land Use Ordinance of the Town of East Millinocket

## SECTION IV: SCHEDULE OF USES (Continued)

F. SCHEDULE OF USES		RD	C	ID	IPD	AP	R
Activities/Districts							
<b>6. COMMERCIAL ACTIVITIES</b>							
a)	Automobile Supplies;	N	C	N	C	N	N
b)	Automobile Body Repair;	N	C	N	C	N	N
c)	Automobile Repair/Service;	N	C	N	C	N	N
d)	Banks/Credit Unions;	N	C	N	N	N	N
e)	Beauty Shops;	N	C	N	N	N	N
f)	Burglar/Fire Alarm Sales;	N	C	N	C	N	N
g)	Sporting Camps;	N	C	N	N	N	N
h)	Clothing Shops;	N	C	N	N	N	N
i)	Craft Shops;	N	C	N	C	N	N
j)	Florist/Greenhouse;	N	C	N	C	N	N
k)	Fuel Oil Sales;	N	C	N	C	N	N
l)	Funeral Homes;	N	C	N	N	N	N
m)	Grocery Stores;	N	C	N	N	N	N
n)	Gun Shops;	N	C	N	N	N	N
o)	Hardware Stores;	N	C	N	C	N	N
p)	Insurance Office;	N	C	N	N	N	N
q)	Professional Office/s;	N	C	N	C	N	N
r)	Pharmacy;	N	C	N	N	N	N
s)	Restaurant;	N	C	N	C	N	N
t)	Animal Hospital/Clinic;	N	C	N	C	N	N
u)	Storage Building/Area;	N	C	N	C	N	N
v)	Bed and Breakfasts;	N	C	N	N	N	N

Land Use Ordinance of the Town of East Millinocket

**SECTION IV: SCHEDULE OF USES** (Continued)

**F. SCHEDULE OF USES**

Activities/Districts		RD	C	ID	IPD	AP	R
<b>6. COMMERCIAL ACTIVITIES</b> (Continued)							
w)	Motels, Hotels and Inns Maximum 10 Rooms, No meals Served;	P	C	N	N	N	N
x)	Motel, Hotels and Inns Maximum 25 Rooms, No meals Served;	N	P	N	N	N	N
y)	Motels, Hotels and Inns 25 or more Rooms, Serving meals to guests only;	N	P	N	N	N	N
z)	Campgrounds;	N	P	N	N	N	P
aa)	Retail Establishments of more Than 2,500 square feet, not listed Above;	N	P	N	N	N	N
bb)	Retail Establishments of less Than 2,500 square feet, not listed above;	N	C	N	N	N	N
cc)	Accessory uses and structures that are essential for the exercise of uses listed above.	P	C	N	N	N	N



## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

#### F. SCHEDULE OF USES

Activities/Districts	RD	C	ID	IPD	AP	R
<hr/>						
<b>7. INDUSTRIAL ACTIVITIES</b>						
a) Pulp Mill;	N	N	P	P	N	N
b) Transportation Facility and Terminal Yard;	N	P	P	P	N	N
c) Bulk Oil and Fuel Tank Storage in excess of 50 gallons except for on-site heating and cooking purposes;	N	P	P	P	N	N
d) Automobile Junk Yard;	N	N	P	P	N	N
e) Wholesale Business Facility;	N	P	P	P	N	N
f) Light Manufacturing Assembly Plant;	N	P	P	P	N	N
g) Disposal of Solid Waste;	N	P	P	P	N	N
h) Disposal of Hazardous/Leachable Materials;	N	N	P	P	N	N
i) Sewage Treatment Facility;	N	N	P	P	N	N
j) Concrete Plant;	N	P	N	N	N	N
k) Accessory uses and structures that are essential for the exercise of uses listed above;	N	C	P	P	N	N

## Land Use Ordinance of the Town of East Millinocket

### SECTION IV: SCHEDULE OF USES (Continued)

#### F. SCHEDULE OF USES

Activities/Districts		RD	C	ID	IPD	AP	R
<b>8. TRANSPORTATION AND UTILITIES</b>							
a)	Land management roads and water crossings of minor flowing waters;	P	P	P	P	P	P
b)	Land management roads and water crossings of standing waters and of major flowing waters;	P	P	P	P	P	P
c)	Road construction projects, other than land management roads, and not part of a project requiring a Planning Board permit;	C	P	P	P	P	P
d)	Road construction projects, other than land management roads, which are part of projects requiring Planning Board review;	P	P	P	P	P	P
e)	Minor utility facilities, including service drops;	C	C	C	P	P	P
f)	Major utility facilities, such as transmission lines, waters supply and sewage treatment facilities, but not including service drops;	C	C	C	P	P	P
g)	Airport terminal building and airport uses;	N	N	N	N	N	N
h)	Accessory uses and structures that are essential for the exercise of uses listed above;	C	C	C	C	C	C

## **SECTION V: LAND USE STANDARDS**

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**SECTION USERS GUIDE:** This section contains general performance standards with which all development proposals submitted for approval pursuant to this Ordinance must comply.

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The purpose of the regulations contained in this section is to allow maximum utilization of land while insuring against adverse impacts on the environment, neighboring properties, and the public interest. This assurance is provided by separating the area of the Town of East Millinocket into districts and permitting specific land uses within each, provided that a use meets all the additional criteria specified in this Ordinance.

This regulatory approach has been termed "performance zoning" because it permits a use to be developed on a particular parcel only if the use on that parcel meets "performance" standards which have been enacted to insure against the use causing (or having the potential to cause) adverse impacts.

The following Land Use Standards shall govern all Land Use Permits issued by the Code Enforcement Officer and the Planning Board.

In reviewing applications submitted pursuant to this Ordinance, the Code Enforcement Officer or the Planning Board shall consider the following performance standards and make written findings that each applicable standard has been met prior to issuing final approval. In all instances the burden of proof shall be upon the applicant.

### **A. GENERAL STANDARDS**

#### **1. ACCESSORY USES**

An accessory use shall not include any use injurious or offensive to the neighborhood as initially determined by the Code Enforcement Officer.

#### **2. ACCESS REQUIREMENTS**

All road entrances, curb cuts, and driveways shall be designed, considering land topography, street design, and existing and expected traffic patterns, so as to promote to the greatest extent possible, safe pedestrian and vehicular traffic and to protect public safety. Driveways and roads in multi-family housing projects shall be designed and laid out to provide for adequate traffic circulation and for access for emergency service vehicles to every housing unit on the premises.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 3. AGRICULTURAL MANAGEMENT ACTIVITIES

Agricultural practices shall be conducted in such a manner to prevent soil erosion, sedimentation, and contamination or nutrient enrichment of surface waters.

#### 4. AIR POLLUTION

Air pollution control and abatement shall comply with applicable minimum Federal and State requirements.

#### 5. BUFFERS

Buffer strips may be required for the following areas and/or purposes:

- a. Along the property line where the reviewing authority (Code Enforcement Officer or Planning Board) determines it desirable and necessary to:

- 1. Shield incompatible uses from one another;
- 2. Block prevailing winds to stop wind borne debris;
- 3. Prevent lighting from interfering with residential properties or with safe driving.

- b. Along any property line, where the reviewing authority determines it desirable and necessary, of all exposed storage areas, sand and gravel extraction operations, utility buildings and structures, automobile salvage and junkyards, parking areas, garbage collection areas, and loading and unloading areas, to minimize their visual impact on adjoining traveled ways and properties.

#### 6. CAMPGROUNDS

All campgrounds shall conform to the following provisions:

- a. Recreational vehicle and tenting areas containing approved water-carried sewage facilities shall meet the following criteria:

- 1. Each recreational vehicle, tent, or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways;
- 2. A minimum of 200 square feet of off-street parking plus maneuvering space shall be provided for each recreational vehicle, tent, or shelter site.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION V: LAND USE STANDARDS** (Continued)

#### **6. CAMPGROUNDS (cont.)**

3. Each recreational vehicle, tent, or shelter site shall be provided with suitable means of trash disposal.
- b. Wilderness recreational areas without water-carried sewage facilities shall contain a minimum of 20,000 square feet, not including roads and driveways, for each recreation vehicle, tent or shelter site.
- c. The area intended for placement for the recreational vehicle, tent, or shelter shall be setback a minimum of 75 feet from the exterior lot lines of the camping area.
- d. All campgrounds shall be screened from adjacent land areas by a continuous landscaped areas not less than 25 feet in width containing evergreen shrubs, trees, fences, walls or any combination which forms an effective visual barrier of not less than six (6) feet in height.

#### **7. CONFORMANCE WITH COMPREHENSIVE PLAN**

All proposed developments shall be in conformity with the Comprehensive Plan and Policy Statements of the Town and with the provisions of all pertinent local ordinances and regulations, State and Federal laws and regulations.

#### **8. CONSTRUCTION IN FLOOD HAZARD AREAS**

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, and locally adopted Floodplain Management Ordinance, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood evaluation.

#### **9. CONVERSIONS**

Conversions of existing structures into multi-family units, in Districts permitting multi-family dwellings, may be permitted provided that:

- a. Off-street parking for two (2) vehicles per dwelling unit plus maneuvering space will be provided;
- b. Approval of conversion plans by the fire, electrical, and plumbing inspector(s) is required prior to issuance of a land use permit;

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

9. CONVERSIONS (cont.)
  - c. Each dwelling unit shall be at least three hundred (350) square feet in area for one (1) bedroom units plus one-hundred and fifty (150) square feet for each additional bedroom; and
  - d. Each dwelling unit shall have its own toilet and kitchen facilities and no dwelling unit will share these facilities with any other dwelling unit.
10. DUST, FUMES, VAPORS, GASES, ODORS, GLARE, AND EXPLOSIVE MATERIALS
  - a. Emission of odors, dust, dirt, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation, or property must comply with State and Federal standards.
  - b. No land use or establishment shall be permitted to produce a strong, dazzling light or reflection of that light beyond it lot lines into neighboring properties or onto any town way so as to impair the vision of the driver of any vehicle upon that town way; and
  - c. No highly flammable or explosive liquids, solids, or gases shall be stored in bulk above ground, unless they are stored in compliance with the requirements of the National Fire Protection Association (NFPA), Section 30, 58 and 59A.
11. EROSION AND SEDIMENTATION CONTROLS

The following measures relating to conservation, erosion, and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance.

  - a. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages; and
  - b. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best management practices:
    - (1) Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;

**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE STANDARDS** (Continued)

11. EROSION AND SEDIMENTATION CONTROLS (cont.)

- (2) Development shall preserve outstanding natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
- (3) The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure shall be kept to a practical minimum;
- (6) Disturbed soils shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be used to protect disturbed areas during development;
- (8) Permanent (final) vegetation and mechanical erosion control measures in accordance with the Department of Environmental Protection's Best Management Practices or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;
- (9) Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
- (10) The top of the cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjacent property, unless otherwise specified by the Planning Board. Extraction operations (gravel pits, etc.) shall not be permitted within one hundred (100) feet of any property lines.
- (11) During grading operations, methods of dust control shall be employed wherever practicable.



## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 11. EROSION AND SEDIMENTATION CONTROLS (cont.)

- (12) Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible;
- (13) Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

#### 12. HOME OCCUPATIONS

- a. The purpose of the Home Occupation provision is to permit the conduct of those businesses which are compatible with the Districts in which they are allowed. Home occupations are limited to those uses which may be conducted within a residential dwelling without substantially changing the appearance or condition of the residence or accessory structure;
- b. Any home occupation or profession which is accessory to and compatible with a residential use may be permitted if:
  - (1) It is carried out in a dwelling unit or in a structure customarily accessory to a dwelling unit;
  - (2) It is conducted by a member or members of the family residing in the dwelling unit; and
  - (3) It does not materially injure the usefulness of the dwelling unit or accessory structure for normal residential purposes.
- c. All home occupations shall conform with the following conditions:
  - (1) The home occupation shall be carried on wholly within the dwelling or accessory structure;
  - (2) The home occupation shall be conducted by a member or members of the family residing in the dwelling unit;



## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 12. HOME OCCUPATIONS (cont.)

- (3) There shall be no exterior display, no exterior signs other than those permitted in Section V, no exterior storage of materials, and no other exterior indication of the home occupation or variation from the residential character of the principal building;
- (4) Objectionable conditions such as noise, vibration, smoke, dust, electrical disturbance, odors, heat, glare, or activity at unreasonable hours, shall not be permitted;
- (5) The traffic generated by such home occupation shall not increase the volume of traffic so as to create a traffic hazard or disturb the residential character of the immediate neighborhood;
- (6) In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of the maximum number of users the home occupation may attract during peak operating hours;
- (7) The home occupation may utilize:
  - a. Not more than twenty (20%) percent of the dwelling unit floor area, provided that for the purpose of this calculation, unfinished basement and attic spaces are not included;
  - b. Unfinished attic and basement spaces; and
  - c. One accessory structure. The floor area utilized in the accessory structure shall not exceed fifty percent (50%) of the total floor area of the dwelling unit.
- (8) The Code Enforcement Officer shall refer any inquiries for a land use permit for a home occupation to the Board of Appeals if, in his opinion, there is any doubt as to whether the proposed use fails to meet any of the requirements; and
- (9) Home occupations which involve use or storage of hazardous or leachable materials in excess of normal residential use are not permitted.
- (10) Home occupations which are pre-existing this ordinance and are non-conforming by definition above, may not physically expand and may not be altered. from one type of occupation, profession,

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 12. HOME OCCUPATIONS (cont.)

or business to another unless it subsequently conforms to the above requirements.

#### 13. INDUSTRIAL PERFORMANCE STANDARDS

The following provisions shall apply to all permitted industrial uses:

a. Danger

No material which is dangerous due to explosion, extreme fire hazard, chemical hazard or radioactivity shall be used, stored, manufactured, processed or assembled except in accordance with applicable State and Federal codes and regulations.

b. Vibration

With the exception of vibration necessarily involved in the construction or demolition of buildings, no vibration shall be transmitted outside the lot where it originates.

c. Wastes

No offensive wastes shall be discharged or dumped into any river, stream, watercourse, storm drain, pond, lake, or swamp. Industrial waste water may be discharged to municipal sewers only and in such quantities and quality as to be compatible with commonly accepted municipal sewage treatment operations subject to the approval of the appropriate entity. The disposal of industrial waste waters by means other than the municipal sewage system must comply with the laws of the State of Maine; and

d. Those standards of Subsection 9 of this Section regarding Dust, Fumes, Vapors, Gases, Odors, Glare and Explosive Materials.

#### 14. JUNKYARDS

No junkyard as defined in this Ordinance shall be established, operated or maintained without first obtaining a non-transferable land use permit issued in accordance with State licensing and local requirements, and the following provisions:

a. Junkyards shall be located a minimum of two hundred (200) feet from the edge of the right-of-ways; and shall be setback one hundred (100) feet from all side and rear lot lines;

b. Junkyards shall be located a minimum of three hundred (300) feet from any public park, facility, or grounds; and

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 14. JUNKYARDS (cont.)

- c. Junkyards shall be entirely screened from view by earth berms or fences which shall be well constructed and properly maintained at a minimum height of six (6) feet and sufficient to accomplish the complete screening from ordinary view.

In addition, the following provisions apply to the operation of junkyards, as defined, in the Town of East Millinocket.

- d. Upon arrival at the junkyard, all petroleum and other hazardous fluids shall be drained from all vehicles, and appropriate safety precautions, such as the removal of door and trunk locks, shall be taken to avoid injury and accidents;
- e. Tires shall be removed and disposed of within 60 days at a duly licensed disposal or transfer facility. Proof of disposal shall be provided to the Code Enforcement Officer upon request.
- f. The complete processing of vehicles into salvage materials shall be accomplished within six (6) months;
- g. All junk and salvage materials shall be stored within the screened/fenced areas and the operation shall be conducted in such a manner as to prevent unsightliness to the adjacent area;
- h. No open burning of salvage materials or junk shall be permitted on the premises. Waste fluids and unusable materials shall be disposed of in a duly licensed disposal facility.
- i. The Planning Board and/or Code Enforcement Officer may recommend the application of more stringent restrictions and/or limitations, and stipulate reasonable conditions which shall be attached to the permit covering the operation and use of the junkyard prior to the Selectpersons issuance of the permit.

#### 15. LIGHTING DESIGN STANDARDS

All exterior lighting shall be designed to minimize adverse impact on neighboring properties.

#### 16. LOT SIZE, SETBACK AND COVERAGE REQUIREMENTS

See B. Dimensional Requirements in this Section

**Land Use Ordinance of the Town of East Millinocket**  
**SECTION V: LAND USE STANDARDS** (Continued)

17. MANUFACTURED HOUSING

- a. Intent: It is the intent of this Ordinance to provide a variety of housing alternatives to all economic levels within the community, while continuing to insure the minimum standards of health, safety and welfare of the community. To this end, this ordinance allows the siting of all types of manufactured housing within designated areas of the Town regardless of their construction date or compliance with all the standards of the Manufactured Home and Construction Safety Standards of the Department of Housing and Urban Development, adopted in 1975. The Town does hereby require however, that all manufactured housing sited within the Town of East Millinocket meet certain minimum safety and design criteria:
- b. Minimum Safety Standards: All manufactured housing as defined in this ordinance, regardless of date of manufacture, and sited within the Town of East Millinocket after the effective date of this ordinance, shall meet or exceed the following minimum standards before a "Certificate of Occupancy" shall be issued by the Code Enforcement Officer in conformance with Section VI. H of this Ordinance.
- c. HUD Approval Sufficient: All manufactured houses constructed after 1975 and bearing the seal of the Department of Housing and Urban Development which certifies the Manufactured Home was built pursuant to the provisions of the Manufactured Homes Construction and Safety Standards as revised shall be deemed to have fulfilled the requirements of this section.
- d. Minimum Electrical Safety Standards: All manufactured housing shall meet the following minimum safety requirements for electrical installation and maintenance as provided for by the National Electrical Code as said code pertains to the following:
  - (1) 100 Ampere Entrance required;
  - (2) Copper wiring required;
  - (3) Two means of grounding required;
  - (4) Ground faulting receptacles required.

In addition, all electrical installation or modifications to existing manufactured housing shall be inspected by and certified by an electrician licensed by the State of Maine or the Municipal Code Enforcement Officer if duly appointed as electrical inspector.

- e. Minimum Fire Prevention Standards: All manufactured housing shall meet the following minimum fire safety requirements as provided for by

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

the National Electrical Code and the Manufactured Housing Construction Standards of 1975 established by the Department of Housing and Urban Development (HUD).

#### 17. MANUFACTURED HOUSING (cont.)

- (1) All homes shall contain at least one operable fire extinguisher which is readily accessible at all times;
  - (2) All homes shall have at least one operable AC smoke detector centrally located within the home and one operable smoke detector in each of the bedrooms;
  - (3) The installation and maintenance of all heating systems including vents, chimneys, and encompassing secondary and tertiary as well as primary heating sources, shall meet the standards of NFPA 211. In addition, no wood stove shall be used for heating purposes in a manufactured home in the Town of East Millinocket without first being inspected and approved by the East Millinocket Fire Department for safe installation;
  - (4) All automatic dryers, whether electric or gas, must meet the venting requirements of the Manufactured Home Construction Standards of 1975 as established by HUD; and;
  - (5) All manufactured homes must meet the egress requirements of the Manufactured Home Construction Standards of HUD, to wit, all manufactured homes shall provide for at least two means of egress from each bedroom, one of which must be directly to the outside of the home and may be accomplished by way of a window of suitable size which can be opened easily without tools, and two doors exiting directly to the outside of the home separated by distances as established by the standards.
- f. Minimum Plumbing Standards: All manufactured housing shall meet the minimum standards of the Maine Plumbing Code as amended.
- g. Minimum Design Standards: All manufactured housing will be sited and maintained in such a manner as to blend harmoniously with other residential structures in close proximity, to this end all manufactured housing located within the Town of East Millinocket after the effective date of this ordinance shall:



## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 17. MANUFACTURED HOUSING (cont.)

- (1) Have and maintain external siding which is residential in appearance for the manufactured home as well as any additions thereto or accessory structures located on the same lot;
- (2) Be located on a permanent foundation.;
- (3) Provide a safe means of egress and ingress to and from the manufactured home including stairs with handrails when applicable.

#### 18. MINERAL EXPLORATION AND EXTRACTION

The following requirements for mineral exploration and extraction activities shall apply in all Districts:

- (1) All exploration/extraction activities, including test pits and holes, shall be promptly capped, refilled, or secured by other equally effective measures so as to reasonably restore disturbed areas and to protect the public health and safety;
- (2) No portion of any ground area disturbed by the extraction activity shall be closer than 25 feet from an public roadway or 75 feet from any property line in the absence of the prior written agreement of the owner of such adjoining property;
- (3) Within 250 feet of any water body the extraction areas shall be protected from soil erosion by ditches, sedimentation basins, dikes, dams or such other control devices which are effective in preventing sediments from being eroded or deposited into such water body.
- (4) A natural vegetative screen of not less than 50 feet in width shall be retained from any facility intended primarily for public use, excluding privately owned roads; and
- (5) If any mineral extraction operation located within 75 feet of any property line or public roadway or facility intended primarily for public use, excluding privately owned roads, is to be terminated or suspended for a period of one year or more, the site shall be rehabilitated by grading the soil to a slope of 2 horizontal to 1 vertical, or flatter.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 19. MOBILE HOME PARK STANDARDS

Notwithstanding other provisions of this Ordinance relating to bulk, and use, the Planning Board in reviewing submitted plans for proposed mobile home parks, may modify said provisions related to space, bulk and use to permit innovative approaches to environmental design in accordance with the following standards;

- a. There shall be compliance with all State and local codes and ordinances;
- b. All utilities shall be installed underground wherever possible. All transformer boxes, substations, pumping stations, and meters as well as fixtures and other devices used in the transmission of voice, data and broadcast signals, shall be located and designed so as not to be unsightly or hazardous to the public;
- c. No mobile home shall be located closer than twenty (20) feet to a street or adjacent mobile home;
- d. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot, such access shall have a minimum of fifty (50) foot right-of-way and a twenty (20) feet road width. All park streets shall be well drained, maintained in good condition, and adequately lighted at night;
- e. Dead end streets shall be limited in length to one thousand (1000) feet and at the closed end shall be provided with a turn around having a minimum radius of sixty (60) feet;
- f. Walkways not less than two (2) feet in width shall connect each mobile home stand to a street or to a driveway connecting to a street;
- g. Off-street parking in all mobile home parks shall be furnished at the rate of at least two (2) car spaces for each mobile home. Parking spaces shall be properly graveled and shall be located at a distance not to exceed two-hundred feet from the mobile home that it is intended to serve;
- h. Mobile home stands shall provide an adequate foundation for the placement of a mobile home; such foundation shall meet the requirements of the duly adopted Building Code of East Millinocket; and
- i. All individual mobile homes shall be equipped with skirting or other type of enclosure.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 20. NOISE

Land use activities shall meet the following provisions:

##### a. Maximum Levels

The maximum permissible sound pressure level of any continuous, regular or frequent or intermittent source of sound produced by any activity shall be limited by the time period and land use which it abuts listed below. Sound levels shall be measured at least 4 feet above ground at the property boundary of the source.

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

District	7:a.m. - 10:p.m.	10:p.m. - 7:a.m.
Residential	55	45
Commercial	65	55
Industrial	70	60

##### b. Meters

Noise shall be measured by a meter set on the A-weighted response scale, fast response. The meter shall meet the American National Standards Institute (ANSI S1 4-1961) "American Standard Specification for General Purpose Sound Level Meters".

##### c. Construction

No person shall engage in construction activities, on a site abutting any residential use between the hours of 10 p.m. and 7 a.m.. Otherwise, the following activities shall be exempt from these regulations:

- 1) Sounds emanating from construction and maintenance activities conducted between 7 a.m. - 10 p.m..
- 2) Sounds emanating from safety signals, warning devices, emergency pressure relief valves and other emergency activities.



## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 21. OFF-STREET PARKING (cont.)

- (7) Restaurants, eating and drinking establishments -- 1 parking space for every 4 seats, plus 1 space for every 2 employees, unless public parking is provided;
- (8) Professional Offices and public buildings -- 1 parking space for every 200 square feet of gross leasable area, exclusive of cellar and bulk storage areas, unless public parking is provided;
- (9) Marinas -- Minimum of 1 parking space for each docking and mooring space;
- (10) Other Commercial Recreation Establishments (mini golf courses, etc.) -- The number of spaces deemed appropriate by the Planning Board; and
- (11) Industrial -- 1 parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of specific operations.

#### 22. OFF-STREET LOADING

In any District where permitted or allowed, commercial or industrial uses shall provide, as necessary, off-street parking as set forth in the above provision. Off-street loading facilities shall be 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. Off-street loading shall meet the following provisions:

- a. All loading spaces shall be designed so that all vehicles using them shall park or stand completely off the street;
- b. Joint use of loading spaces by two or more users in a Commercial or Industrial District may be authorized by the Planning Board upon review;
- c. All off-street loading spaces shall be on the same or adjacent lot which is being served.
- d. Required loading spaces shall in no case be part of the area used to satisfy the off-street parking requirements of this Ordinance.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 21. OFF-STREET PARKING

- a. Off-street parking, either by means of open air spaces or by garage space, in addition to being a permitted use, shall be considered as an accessory use when required or provided to serve conforming uses located in any District;
- b. Required off-street parking spaces shall be provided;
- c. The following minimum off-street parking requirements shall be provided and maintained in case of new construction, alterations and changes of use;
  - (1) Dwellings - Two (2) parking spaces for each dwelling unit;
  - (2) Transient Accommodations:
    - (a) Bed and Breakfast accommodations and motels, hotels, boarding houses, and inns with 10 rooms or less -- Two (2) parking spaces plus one space for each guest room; and
    - (b) Motels, hotels, boarding houses, and inns with more than 10 rooms -- One (1) parking space for each guest plus one (1) space for each 3 employees;
  - (3) Schools -- Five (5) parking spaces for each room plus 1 space for every 4 employees;
  - (4) Health Institutions (bed facilities only) -- 1 parking space for every 3 beds, plus 1 for each employee based on the expected average employee occupancy;
  - (5) Theaters, churches, and other public assembly places -- 1 parking space for every 4 seats or for every 100 square feet or major fraction thereof of assemblage space if no fixed seats;
  - (6) Retail Stores -- 1 parking space for every 200 square feet of retail area, plus one space for every two employees, unless public parking is provided;

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION V: LAND USE STANDARDS** (Continued)

#### **23. OIL AND CHEMICAL STORAGE**

- a. All storage of petroleum or liquid petroleum products shall be in conformance with the provisions of Title 38 MRSA, Section 560 et seq., which among other things establishes a ten-year compliance schedule for the discontinuance and removal of non-conforming underground oil storage facilities and requires qualified personnel to oversee the removal of certain underground facilities; and
- b. When applicable, the applicant shall have the burden of proof to assure the Planning Board or Code Enforcement Officer that all provisions of the above statutes have been met before the issuance of any permits may take place.

#### **24. PESTICIDE APPLICATION**

Pesticide application in any of the Districts shall not require a permit provided such application is in conformance with applicable State and Federal statutes and regulations.

#### **25. POLLUTION LEVELS**

Any pollutant introduced into soil on the site shall not exceed a concentration in the ground water that is greater than the guideline established for it in the Safe Drinking Water Standard, EPA Health Advisory, or NAS Health Advisory. Any violation of this standard shall be cause to order the immediate stop of the use or activity responsible for the contamination. The land owner shall be responsible for the cost of all remedial actions.

#### **26. REFUSE DISPOSAL**

The applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The impact of particular industrial or chemical wastes or by-products upon the sanitary facilities (in terms of volume, flammability or toxicity) shall be considered and the applicant may be required to dispose of such wastes elsewhere, in conformance with all applicable state and federal regulations. The applicant may be required to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 27. SEWAGE DISPOSAL

##### a. Subsurface Sewage Disposal

No permit shall be issued for a project with subsurface sewage disposal unless:

- (1) There is an area of suitable soils according to the Subsurface Waste Water Disposal rules of sufficient size to accommodate the proposed system
- (2) An acceptable plan to construct the absorption area is prepared in accordance with the Subsurface Waste Water Disposal Rules; and
- (3) In lieu of (1) and/or (2) above, the applicant demonstrates that any deficiencies of the soil for purposes of sewage disposal can and will be overcome by a suitable engineering solution; No development shall be permitted which utilizes, for on-site subsurface sewage disposal purposes, any soil listed in the Soil Suitability Guide as having a very poor rating for the proposed use, unless the proposed sewage disposal system is approved under the Subsurface Waste Water Disposal Rules.

##### b. Sewage Sludge Disposal

The following requirements shall apply to sewage sludge disposal wherever allowed: All septic sludge disposal shall conform with the "Maine Guidelines for Septic Tank Sludge Disposal on the Land" published by the University of Maine at Orono and the Maine Soil and Water Conservation Commission in April, 1974.

#### 28. SIGNS

##### a. Conformance of Signs

No sign shall hereafter erected, altered or maintained within the limits of the Town of East Millinocket except in conformance with the provisions of this section.

##### b. Signs Prohibited

No sign, whether new or existing, shall be permitted within the Town of East Millinocket which causes a sight, traffic, health or welfare hazard, or results in a nuisance, due to illumination, placement, display, or obstruction of existing signs.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 28. SIGNS (cont.)

##### c. On Premise Signs

Owners or Occupants of real property may erect and maintain on-premise signs which advertise the sale or lease thereof or activities being conducted thereon provided that said signs are in conformance with the regulations set forth below:

- (1) The maximum size for each individual sign in a Residential Development District shall not exceed four (4) square feet;
- (2) The maximum size for each individual sign located in a District other than a Residential Development District unless otherwise limited or prohibited shall not exceed forth (40) square feet;
- (3) On-premise signs, other than wall or projecting signs, shall not extend more than 20 feet above ground level, and shall not have a supporting structure which extends more than two (2) feet above such sign;
- (4) The maximum aggregate area of signs for an individual use in a Residential Development District shall not exceed six (6) square feet;
- (5) No sign shall be permitted which is erected or maintained on any tree or painted or drawn upon any rock or other natural feature or any utility pole;
- (6) One sign identifying the name, address and profession or occupation of a permitted home occupation or a lawfully existing non-conforming home occupation is permitted provided that such sign does not exceed four (4) square feet in area and is not internally illuminated; and
- (7) Directional signs solely indicating ingress and egress placed at driveway locations, containing no advertising material or display area, not exceeding two (2) square feet, and not extending higher than four (4) feet above ground level are permitted.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 28. SIGNS (cont.)

##### d. Temporary Signs

The following temporary signs are permitted provided said signs conform to all standards of this section and all other municipal, federal and state ordinances, statutes and/or regulations:

##### (1) Temporary Signs Giving Notice

Signs of a temporary nature, such as political posters, advertisements or charitable functions, notices of meetings, other non-commercial signs of a similar nature, are permitted for a period not to exceed thirty (30) days, provided that the persons who posted the signs shall be responsible for their removal.

##### (2) Temporary Yard Sale Signs

Temporary yard sale signs are permitted provided they do not exceed the size standards of Subsection e and provided they are removed within 24 hours of the completion of the sale. Yard sales which extend for more than four (4) consecutive days are considered commercial use.

##### e. Sign Requirements

All signs within the limits of the Town of East Millinocket shall meet the following requirements:

(1) No sign shall project over a walkway or interfere in any way with the normal flow of foot or vehicular traffic. All free standing signs shall be set back a minimum of five (5) feet from property lines in all Districts;

(2) No sign shall contain, include, or be illuminated by flashing, blinking, intermittent, or moving lights;

(3) Signs may be illuminated only by shielded non-flashing lights so as to effectively prevent beams or rays of light from being directed at neighboring residential properties or any portion of the main traveled way of a roadway, or is of such low intensity or brilliance as not to cause glare or impair the vision of the driver of any motor vehicle or otherwise interfere with the operation thereof.



## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS (Continued)

#### 29. SIGNS (cont.)

##### f. Exempt Signs

The following signs are exempt from the provisions of this section except as otherwise provided for herein:

- (1) Signs erected by a government body; and
- (2) Traffic control signs, signals, and/or devices.

#### 29. SITE CONDITIONS

- a. During construction, the site shall be maintained and left each day in a safe and sanitary manner, and any condition which could lead to personal injury or property damage shall be immediately corrected by the developer upon order by the Code Enforcement Officer or other authorized personnel. The developer shall make provision for disposal of oil and grease from equipment and the site area should be regularly treated to control dust from construction activity.
- b. Developed areas shall be cleared of all stumps, litter, rubbish, brush, weeds, dead and dying trees, roots and debris, and excess or scrap building materials shall be removed or destroyed immediately upon the request of and to the satisfaction of the Code Enforcement Officer prior to issuing an occupancy permit; and
- c. No changes shall be made in the elevation or contour of the lot or site by the removal of earth to another lot or site other than as shown on an approved site plan. Minimal changes in elevations or contours necessitated by field conditions may be made only after approval by the Code Enforcement Officer/Planning Board and as duly noted on the site plan.

#### 30. 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, and water pollution, whether during or after construction.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION V: LAND USE STANDARDS** (Continued)

#### **31. TEMPORARY STORAGE**

Portable or mobile trailers, vans and similar vehicles or temporary buildings may be used for storage, only upon approval of the Code Enforcement Officer and only for a temporary period not to exceed six (6) months. Such approval may be granted by the Code Enforcement Officer and may be extended for successive periods of six (6) months each, if a finding can be made that the use:

- a. Does not diminish area requirements as set forth for the District in which it is located;
- b. There is a valid temporary need which cannot be met within the principal structure and that adequate economic hardship can be shown;
- c. The initial approval, or any renewal, of the use will not in any way be detrimental to the neighboring properties including aesthetic appearance;
- d. The use is not intended as a permanent or long term use;
- e. The use is not intended to circumvent building area limitations for the District in which it is located or prolong the use of facilities which have been outgrown;
- f. Will be adequately screened from neighborhood properties and the street;
- g. Will not be used as or intended for advertising for on or off premises purposes;
- h. Is not intended for retail sales.

The above provisions do not prohibit the use of such temporary facilities as construction or job site office or equipment storage facilities during construction provided that no advertising other than the contractor's name shall be permitted and that such signs meet the sign requirements of this Ordinance.

#### **32. TOPSOIL AND VEGETATION REMOVAL**

- a. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations;



**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE STANDARDS** (Continued)

32. TOPSOIL AND VEGETATION REMOVAL (cont.)
- b. Except for normal thinning, landscaping, cutting or trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed development.
33. TRANSIENT ACCOMMODATIONS: "BED AND BREAKFAST"
- "Bed and Breakfast" accommodations shall be permitted in the private, year-round residence of the host family who live on the premises provided that:
- a. The maximum number of guests at any time is ten (10) persons. Children under 12 are exempt from this provision;
  - b. The maximum number of guest rooms is five (5);
  - c. Breakfast is the only meal provided by the host family;
  - d. One (1) sign not to exceed four (4) square feet is permitted on the premises; and
  - e. The "Bed and Breakfast" operation shall not have any adverse effect on neighbors.
34. TRANSIENT ACCOMMODATIONS: "RENTAL CABINS AND COTTAGES"
- To insure the health, safety, and welfare of guests and the occupants of neighboring properties, the following requirements shall be met:
- a. Each cabin or cottage site shall meet the minimum lot size requirements of a single family detached dwelling in the applicable District;
  - b. A minimum of two hundred (200) square feet of off-street parking plus maneuvering space shall be provided for each cabin or cottage;
  - c. Each cabin or cottage shall be set back a minimum of fifty (50) feet from the exterior lot lines;
  - d. Each cabin or cottage shall be provided with a safe and adequate means of sewage, garbage and rubbish disposal, water supply and fire protection;
  - e. Adequate storm water drainage shall be provided for each cabin or cottage site; and
  - f. Each cabin or cottage site shall be appropriately landscaped.

## Land Use Ordinance of the Town of East Millinocket

### SECTION V: LAND USE STANDARDS

#### B. DIMENSIONAL REQUIREMENTS

All structures and uses shall meet or exceed the following dimensional requirements:

<b>District</b>	<b>(RD)</b>
<b><u>Dimensional Requirements</u></b>	<b><u>Residential Development District</u></b>
<b>Minimum Lot Size</b>	
Municipal Sewer	10,000 Square Feet
Subsurface Disposal	20,000 Square Feet
<b>Minimum Lot Area Per Family</b>	5,000 Square Feet
<b>Minimum Road Frontage</b>	100 Feet
<b>Minimum Lot Width</b>	100 Feet
<b>Minimum Lot Depth</b>	100 Feet
<b>Minimum Front Yard Setback</b>	35 Feet
<b>From Edge of Traveled Way</b>	20 Feet
<b>(Corner Lot)</b>	
<b>Minimum Side Yard Setback</b>	Frontage      Setback
	> 100'      -      10 Feet
	< 100'      -      5 Feet
<b>Minimum Rear Yard Setback</b>	Frontage      -      Setback
	> 100'      -      10 Feet
	< 100'      -      5 Feet
<b>Maximum Building Height</b>	30 Feet
<b>Maximum Lot Coverage</b>	30%

**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE STANDARDS**

**B. DIMENSIONAL REQUIREMENTS (cont.)**

<b>District</b> <b><u>Dimensional Requirements</u></b>	<b>(C)</b> <b><u>Commercial District</u></b>
<b>Minimum Lot Size</b>	
<b>Municipal Sewer</b>	10,000 Square Feet
<b>Subsurface Disposal</b>	20,000 Square Feet
<b>Minimum Lot Area per Family</b>	5,000 Square Feet
<b>Minimum Road Frontage</b>	60 Feet
<b>Minimum Lot Width</b>	60 Feet
<b>Minimum Lot Depth</b>	75 Feet
<b>Minimum Front Yard Setback From Edge of Traveled Way</b>	20 Feet
<b>Minimum Side Yard Setback</b>	8 Feet
<b>Minimum Rear Yard Setback</b>	24 Feet
<b>Maximum Building Height</b>	30 Feet
<b>Maximum Lot Coverage</b>	

**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE STANDARDS**

**B. DIMENSIONAL REQUIREMENTS (cont.)**

<b>District</b> <b><u>Dimensional Requirements</u></b>	<b>(ID)</b> <b><u>Industrial District</u></b>
<b>Minimum Lot Size</b>	10,000 Square Feet
<b>Minimum Road Frontage</b>	100 Feet
<b>Minimum Lot Width</b>	100 Feet
<b>Minimum Lot Depth</b>	100 Feet
<b>Minimum Front Yard Setback</b>	50 Feet
<b>Minimum Side Yard Setback</b>	50 Feet
<b>Minimum Rear Yard Setback</b>	50 Feet
<b>Maximum Building Height</b>	45 Feet*
<b>Maximum Lot Coverage</b>	50%

- \* No building shall be exceed three stories or 45 feet in height without approval of the East Millinocket Planning Board. Features of buildings or structures, such as chimneys, tower, ventilators, and spires, may exceed 45 feet in height, but shall be set back from the nearest lot line a distance of not less than the height of such feature or structure, unless a greater set back is required by other provisions of this Ordinance.

**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE ORDINANCE**

**B. DIMENSIONAL REQUIREMENTS**

<b>District</b> <b><u>Dimensional Requirements</u></b>	<b>(IPD)</b> <b><u>Industrial Park District</u></b>
<b>Minimum Lot Size</b>	10,000 Square Feet
<b>Minimum Road Frontage</b>	100 Feet
<b>Minimum Lot Width</b>	100 Feet
<b>Minimum Front Yard Setback</b>	50 Feet
<b>Minimum Side Yard Setback</b>	50 Feet
<b>Minimum Rear Yard Setback</b>	50 Feet
<b>Maximum Lot Coverage</b>	50 %
<b>Maximum Building Height</b>	45 Feet*

- \* No building shall exceed three stories or 45 feet in height, except without approval of the East Millinocket Planning Board. Features of buildings and structures, such as chimneys, tower, ventilators, and spires, may exceed 45 feet in height, but shall be set back from the nearest lot line a distance of not less than the height of such feature or structure, unless a greater set back is required by other provisions of this Ordinance.

**Land Use Ordinance of the Town of East Millinocket**

**SECTION V: LAND USE STANDARDS**

**B. DIMENSIONAL REQUIREMENTS (cont.)**

<b>District</b> <b><u>Dimensional Requirements</u></b>	<b>(AP)</b> <b><u>Aquifer Protection District</u></b>
<b>Minimum Lot Size</b>	NA
<b>Minimum Road Frontage</b>	NA
<b>Minimum Setbacks</b>	NA
<b>District</b> <b><u>Dimensional Requirements</u></b>	<b>(R)</b> <b><u>Rural District</u></b>
<b>Minimum Lot Size</b>	
Municipal Sewer	10,000 Square Feet
Subsurface Wastewater Disposal	20,000 Square Feet
<b>Minimum Lot Size per Dwelling</b>	NA
<b>Minimum Frontage and Setbacks</b>	NA
<b>Maximum Building Height</b>	30 Feet

**Land Use Ordinance of the Town of East Millinocket**

**SECTION VI: ADMINISTRATION AND ENFORCEMENT**

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**Section Uses Guide:** This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

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**A. CREATION OF ADMINISTERING BODIES AND AGENTS**

**1. CODE ENFORCEMENT OFFICER**

The office of Code Enforcement is hereby established. The Code Enforcement Officer shall be appointed by the Selectpersons of the Town of East Millinocket.

The Code Enforcement Officer shall approve or deny those applications on which he/she is employed to act as provided in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

**2. PLANNING BOARD**

The Planning Board of the Town of East Millinocket is hereby designated as the Planning Board heretofore, established in accordance with Article VIII, Pt 2, Section 1 of the Maine Constitution and Title 30-A MRSA, Section 3001. The Planning Board shall be appointed by the Selectpersons of the Town of East Millinocket.

The Planning Board shall approve, approve with conditions, or deny those applications on which it is empowered to act as stated in this Ordinance. Approval shall be granted only if the proposed use is in conformance with the provisions of this Ordinance.

**3. BOARD OF APPEALS**

The Board of Appeals for the Town of East Millinocket is hereby designated as the Board of Appeals heretofore, established in accordance with Article VIII, Pt. 2, Section 1 of the Maine Constitution and with Title 30-A MRSA, Section 3001. The Board of Appeals shall be appointed by the Selectpersons of the Town of East Millinocket.

**B. APPROVAL REQUIRED**

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Planning Board or Code Enforcement Officer, as provided herein.

**Land Use Ordinance of the Town of East Millinocket**

**SECTION VI: ADMINISTRATION AND ENFORCEMENT** (Continued)

**C. APPLICATION REQUIRED**

Applications for approval shall be submitted in writing, on forms provided, to the Code Enforcement Officer who shall oversee the permitting process and record keeping. The Code Enforcement Officer may require the submission of additional information deemed necessary to determine conformance with the provisions of this Ordinance.

**D. OTHER PERMITS REQUIRED BEFORE APPROVAL**

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been secured and evidence that they have been secured has been provided unless state or federal regulations require local approval first.

**E. POSITIVE FINDINGS REQUIRED**

Approval shall be granted by the Code Enforcement Officer or Planning Board, after receipt of a complete application, only upon a positive finding by the Code Enforcement Officer or Planning Board that the proposed use:

- a. Is a permitted use in the district/zone in which it is proposed to be located;
- b. Is in conformance with the applicable performance standards of Section V of this Ordinance;
- c. Will not result in unsafe or unhealthful conditions;
- d. Will not result in undue land, water, or air pollution;
- e. Will not result in undue erosion or sedimentation;
- f. Will avoid problems associated with development in flood hazard areas;
- g. Will not result in damage to spawning grounds, fish, aquatic life, bird and other wildlife habitat;
- h. Will conserve significant natural, archaeological and historical resources;
- i. Will minimize traffic congestion and provide for orderly traffic flow.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VI: ADMINISTRATION AND ENFORCEMENT** (Continued)

#### **F. VIOLATIONS**

Violation of the terms and conditions of this Ordinance shall be corrected within 30 days of receipt of Notice of Violation, unless an extension of time is granted by the Code Enforcement Officer or Planning Board, said violation may void all permits. In the situation of public endangerment, the Code Enforcement Officer may order the immediate correction and abatement of violation.

#### **G. COMMENCEMENT AND COMPLETION OF WORK**

Construction and alteration activities for which approval has been granted under this Ordinance shall commence within six (6) months of the date of permit issuance and shall be substantially completed within twenty-four (24) months of the date of permit issuance.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the approval issued under this Ordinance shall be considered void.

Activities may be extended in (1) year increments by the Code Enforcement Officer or Planning Board if application is submitted not later than thirty (30) days prior to expiration.

#### **H. CERTIFICATE OF OCCUPANCY REQUIRED**

After a building, structure, or part thereof has been erected, altered, enlarged, or moved, pursuant to approval under this Ordinance, a Certificate of Occupancy shall be obtained from the Code Enforcement Officer for the proposed use before the same may be occupied or used. A Certificate of Occupancy is required for all activities granted approval under the terms of this Ordinance.

#### **I. PUBLIC HEARINGS**

Following the filing of an application, and before taking action on any application, the Planning Board may hold a public hearing on the application within 30 days of receipt of completed application. In scheduling public hearings under this Ordinance, the Planning Board shall notify the Selectpersons in advance of the date, time and place of the hearing. The Town Clerk shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area at least one (1) time and shall post such notice in at least two (2) conspicuous public places at least seven (7) days in advance of the hearing.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VI: ADMINISTRATION AND ENFORCEMENT** (Continued)

#### **I. PUBLIC HEARINGS** (Continued)

At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. 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 Chairperson of the Planning Board or designated hearing officer.

Within thirty-five (35) days of the public hearing, the Planning Board shall reach a decision on the proposed development plan and shall inform the applicant and the Selectpersons in writing within seven (7) days of its decision stating its reasons. The Planning Board shall prepare detailed, written findings of fact, based on sufficient evidence presented at the public hearing, as well as its conclusions and the reasons or basis thereof. These findings shall not be based on feelings or unsubstantiated allegations, but upon the evidence contained in the record of the hearing.

#### **J. ENFORCEMENT**

##### **1. NUISANCES**

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

##### **2. 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 shall find that any provision of this Ordinance is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct the violation, including discontinuance of illegal use of land, buildings, structures, and abatement of nuisance conditions. A copy of such notices shall be maintained as a permanent record.

##### **3. LEGAL ACTIONS**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectpersons, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of the Ordinance in the name of the municipality.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VI: ADMINISTRATION AND ENFORCEMENT (Continued)**

#### **4. FINES**

Any person who continues to violate any provisions of this Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of a minimum of \$100.00 - \$2,500.00 for each violation.

#### **5. CONTRACTOR LIABILITY**

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits for said activity have not been obtained.

### **K. APPEALS**

#### **1. ADMINISTRATIVE APPEALS**

The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement Officer or the Planning Board in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.

#### **2. VARIANCES**

The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

a. Dimensional variances may be granted only from dimensional requirements including frontage, lot area, lot width, height, and setback requirements.

b. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance.

c. The Board shall not grant a variance unless it finds that:

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

2. The strict application of the terms of this Ordinance would result in an undue hardship. The term "undue hardship" shall mean all of the following:

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VI: ADMINISTRATION AND ENFORCEMENT** (Continued)

#### **2. VARIANCES (cont.)**

- a. The land in question cannot yield a reasonable return unless a variance is granted;
  - b. That the need for a variance is due to the circumstances of the property and not to the general condition in the neighborhood;
  - c. That the granting of a variance will not alter the essential character of the locality; and
  - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- d. The Board may grant a variance to a property owner for the purpose of making the property accessible to a person with a disability who is living or regularly visits the property. The Board shall restrict any variance granted under this Sub-Section solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability.
- e. The Board may grant a variance to a property owner from a setback requirement only when strict application of the zoning ordinance to a petitioner and the petitioners property would cause undue hardship. A variance under this section may not exceed 20% of a setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:
1. The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  2. The granting of a variance will not alter the essential character of the locality;
  3. The hardship is not the result of action taken by the applicant or a prior owner;
  4. The granting of the variance will not substantially reduce or impair the use of abutting property; and

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VI: ADMINISTRATION AND ENFORCEMENT** (Continued)

#### **2. VARIANCES (cont.)**

5. That the granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

#### **3. APPEAL TO SUPERIOR COURT**

An appeal may be taken within thirty (30) days after any decision is rendered by the Board of Appeals, by any party to Superior Court in accordance with State Law.

#### **L. VARIANCE RECORDED**

If the board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. The certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The date of the final written approval shall be the date stated on the written approval.

#### **M. FEE SCHEDULE**

All applications for permits shall be in accordance with the fee schedule as established by the Selectpersons of the Town of East Millinocket. Fees shall be for the cost of processing the various permits and shall not be refundable regardless of the final decision to issue or deny a permit.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS**

#### **A. CONSTRUCTION OF LANGUAGE**

1. In this Ordinance, certain terms or words should be interpreted as follows:
  - a. The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as individual;
  - b. The present tense includes the future tense, the singular number includes the plural and plural includes the singular;
  - c. The word "shall" is mandatory;
  - d. The word "may" is permitted;
  - e. The words "used" or "occupied" includes the words "intended", "designed", or "arranged to be used or occupied"; and
  - f. The word "dwelling" includes the word "residence".

In the case of any difference or meaning or implication between the text of this Ordinance and any map or illustration, the text shall control.

2. Terms not defined shall have the customary dictionary meaning.

#### **B. DEFINITIONS**

For the purposes of interpreting this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein.

**ABUTTING:** Having a common border with, or being separated from such common border by an alley or easement.

**ACCESS:** A means of approach or entry to or exit from property.

**ACCESSORY STRUCTURE:** See Structural Terms

**ACRE:** A measure of land containing forty-three thousand, five hundred and sixty (43,560) square feet.

**AGGRIEVED PERSON:** A person whose interests are damaged or adversely affected by a decision, an action, or the failure to act by the Planning Board or Code Enforcement Officer.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**ALTERATION:** As applied to a building or structure, a change or rearrangement in the structural parts or in the means of egress; or an enlargement, whether by extending on a side or by increasing height; or in moving from one location or position to another.

**APPEAL:** A means for obtaining review of a decision, determination, order or failure to act pursuant to the terms of this Ordinance as expressly authorized by this Ordinance.

**ATTIC:** That part of a building which is immediately below, and wholly or partly within the roof framing.

**AUTOMOBILE SALES:** A lot arranged, designed, or used for the storage and display for sale of any motor vehicle and where no repair work is done except minor incidental repair of automobiles or trailers displayed and sold on the premises.

**BASEMENT:** The substructure of a building that is partially or wholly below ground level which may or may not be used for living spaces.

**BED AND BREAKFAST:** Accommodations provided for compensation as a business in the private year-round residence of the host family, consisting of a maximum of five guest rooms and 10 guests at any one time, not including children under 12 years of age. Breakfast is the only meal, if any, to be provided for compensation.

**BUFFERS:** Units of land, together with specified types and amounts of planting thereon and any structures which may be required between land uses to eliminate or minimize conflicts between them.

**BUILDING:** A roofed structure. See Structural Terms

**BUILDING FRONT LINE:** Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches whether enclosed or unenclosed but does not include steps.

**CAMPGROUND:** Any premises established for overnight use for the purpose of temporary camping and for which a fee is charged directly or indirectly.

**CERTIFICATE OF OCCUPANCY:** Official certification that a premises conforms to provisions of the Land Use Ordinance (and building code, electrical code, plumbing code, and life safety code) and may be used or occupied. Such a certificate is granted for new construction or for alteration or additions to existing structures. Unless such a certificate is issued, a structure cannot be lawfully occupied.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**CLUSTER DEVELOPMENT:** The development, according to an approved plan, of a large tract of land where three (3) or more buildings are constructed on lots smaller than normally required in the district where located, provided the overall density of the development of the tract does not exceed the density or requirements of the district; and land not built upon is permanently preserved as common "open space". The term also refers to a Planned Unit Development.

**CODE ENFORCEMENT OFFICER:** A person appointed by the Board of Selectpersons to administer this Ordinance.

**DAY CARE CENTER:** As defined in Title 22, MRSA, Section 1673, as a house or other place in which a person or combination of persons maintains or otherwise carries out a regular program, for consideration, for any part of a day, providing care and protection for 3 or more children under the age of 16 unrelated to the operator, not to include nursery schools, summer camps, formal public or private schools, and further defined by the Department of Human Services as follows:

**Day Care Center:** A Day Care Facility as defined in State Statutes for 13 or more children on a regular basis; and

**Day Care Home:** A Day Care Facility as defined in State Statutes for 3 to 12 children on a regular basis.

**DEVELOPER:** The legal or beneficial owner(s) of a lot or parcel of any land proposed for inclusion in a development, including the holder of an option or contract to purchase.

**DISTRICT:** A specified portion of the Town, delineated on the Official Zoning Map, within which certain regulations and requirements or various combinations thereof, apply under the provisions of this Ordinance.

**EASEMENT:** Legally binding authorization by a property owner of the use by another and for a specified purpose of any designated part of his property.

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

**ENLARGEMENT OR TO ENLARGE:** An "enlargement" is an addition to the floor area of an existing building, an increase in the size of any structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**ESSENTIAL SERVICES:** The construction, alteration, maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection supply or disposal systems. Such systems include tower, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories. These systems are exempt from the definition of a structure.

**EXTENSION OR TO EXTEND:** An increase in the amount of floor area used for an existing use within an existing building. To "extend" is to make an extension.

**FAMILY:** Two (2) or more persons related by blood, marriage or adoption or guardianship, or not more than five (5) persons not so related occupying a dwelling unit and living as a single housekeeping unit; such a group to be distinguished from a group occupying a boarding house, lodging house, club, or fraternity, or hotel.

#### **FOREST MANAGEMENT TERMS:**

**Forest Management Activities:** Timber harvesting and other forest resources evaluation activities, management planning activities, insect and disease control, timber stand improvement, pruning, timber harvesting and other similar associated activities but not the construction or creation of roads.

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

**GARAGE, RESIDENTIAL:** An accessory building for parking or temporary storage of automobiles of residential occupants of the premises, or a part of the residence usually occupying the ground floor area of principal one-or-two family dwellings, not more than one (1) space may regularly be used by the private passenger automobile or a person not residing on the premises.

**GROCERY STORE:** A small neighborhood establishment retailing food and related commodities, as distinguished from a supermarket, defined as a "Major Retail Outlet".

**GUEST ROOM:** A room in a hotel, motel, tourist home or "bed and breakfast" residence offered to the public for compensation in which no provision is made for cooking.

**HOME OCCUPATION:** A business, profession, occupation, or trade conducted for gain or support and located entirely within a residential building or a structural accessory thereto, which use is accessory, incidental and secondary to the use of the building for dwelling purposes, and does not change the residential character or appearance of such building.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**HOSPITAL:** An institution providing health services, primarily for in-patient, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out patient departments, training facilities, central service facilities and staff offices.

**INDUSTRY:** Use of a premises for assembling, fabricating, finishing, manufacturing, packaging, or processing. These include but are not limited to assembly plants, laboratories, power plants, pumping stations and repair shops.

**IN-LAW APARTMENTS:** See Structural Terms

**JUNKYARDS:**

Automobile Graveyards: A yard, field or other area used as a place of storage for three (3) or more unserviceable, discarded, worn-out or junked automobiles.

Junkyard: A yard, field or other area used as a place of storage for discarded worn-out or junked plumbing, heating supplies, household appliances, furniture, scrap lumber, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and scrap iron, steel and other ferrous and non-ferrous material including garbage dumps, waste dumps and sanitary landfills.

Auto Recycling Business: An automobile recycling business is a business which purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts, rebuilding or repairing salvage vehicles for resale.

**LAND USE PERMIT:** A permit for proposed land use activity as defined in this Ordinance and issued by the Planning Board or Code Enforcement Officer in accordance with the provisions of this Ordinance.

**LIGHT MANUFACTURING:** The fabrication or processing of materials into a finished product. Fabrication relates to the stamping, cutting or otherwise shaping the processed material into useful products/objects.

**LOADING SPACE:** An off-street space or berth on the same lot with a building or contiguous to a group of buildings for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts upon a street, alley or other appropriate means of access.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**LOT:** A parcel of land undivided by any street or public road and occupied by, or designated to be developed for, one (1) building or principal use and the accessory buildings or uses incidental to such building, use or development, including such open spaces and yards as designed, and arranged or required by this Ordinance for such building, use or development

**LOT CORNER:** A lot abutting two or more streets at their intersection.

**LOT COVERAGE:** The percentage of the lot covered by impervious surfaces.

**LOT DEPTH:** The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

**LOT FRONTAGE:** Lot width measured at the street lot line. When a lot has more than one street lot line, lot width shall be measured, and the minimum lot width required by the Ordinance shall be provided, on at least one street.

**LOT LINE:** A line bounding a lot which divides one lot from another, or from a street or any other public or private space, as defined below.

**Front Lot Line:** In the case of a lot abutting only one street, the street line separating such lot from such street; in the case of a double frontage lot, each street line separating such lot from a street shall be considered to be the front lot line, except where the rear yard requirement is greater than the front yard requirement in which case one of two opposing yards shall be a rear yard. In the case of lot with no frontage, the front lot line shall be considered to be the line parallel to the front of the building.

**Rear Lot Line:** That lot line which is parallel to and most distant from the front lot line of the lot; in the case of an irregular, triangular, or gore-shaped lot, a line twenty (20) feet in length, entirely within the lot, parallel to and at the maximum possible distance from, the front lot line shall be considered to be the lot line. In the case of lots which have frontage on more than one road or street, the rear lot line shall be opposite the lot line along which the lot takes access to a street

**Side Lot Line** Any lot line other than a front or rear lot line.

**LOT OF RECORD:** Any validly recorded lot which at the time of its recordation complied with all applicable laws, ordinances, and regulations.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**LOT STANDARDS:** The combination of controls which establishes the maximum size of a building and its location on the lot. Components of lot standards, also known as "space and bulk" regulations in size and height of building; location or exterior walls at all levels with respect to lot line, streets, and other buildings; building coverage; gross floor area of buildings in relation to lot area; open space (yard) requirements; and amount of lot area provided per dwelling unit.

**MANUFACTURED HOUSING:** A structural unit or units designed for occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis, or places on an independent chassis, to a building site.

For the purposes of this Ordinance, three (3) types of manufactured housing will be referred to:

1. **NEWER MOBILE HOME:** Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the United States Department of housing and Urban Development standards and complies with the Manufactured Housing Construction and Safety Standards of 1974, et. seq., which in the traveling mode are 14 body feet or more in width and area 750 or more square feet and area constructed on a permanent chassis and designed to be used as a dwelling, with or without permanent foundation;
2. **OLDER MOBILE HOMES:** Those units constructed before June 15, 1976, and not in compliance with the Manufactured Housing Construction and Safety Standards Act of 1974, which are constructed on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, but does not include those smaller units commonly called "travel trailers"; and
3. **MODULAR HOMES:** Those units which the manufacturer certifies are constructed in compliance with the State's Manufactured Housing Act and regulations, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical systems contained herein.

**MEDICAL CLINIC:** An office building used by members of the medical profession for the diagnosis and out-patient treatment of human ailments.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

**MINERAL EXTRACTION:** The removal of sand, gravel, bedrock or soil from its natural site of geologic deposition or formation; the screening, sorting, crushing or other processing of any part of the geologic material so removed; the storage of sand, gravel, crushed stone, or soil in stock piles or other forms.

**MOBILE HOME PARK:** A parcel of land under unified ownership approved by the Town of East Millinocket for the placement of three (3) or more manufactured homes.

**MOTOR VEHICLE:** Every vehicle which is self-propelled and designed for carrying persons or property or which is used for the transportation of persons.

**MOTOR VEHICLE, UNSERVICEABLE:** Any motor vehicle which is wrecked, dismantled, cannot be operated legally on any public highway, or which is not being used for the purposes for which it was manufactured.

**MUNICIPAL FACILITIES:** Buildings or land which is owned by the Town of East Millinocket and operated under its supervision.

**NON-CONFORMING USE:** See USE TERMS

**NORMAL MAINTENANCE AND REPAIR:** Any work necessary to maintain an improvement or structure in its original or previously improved state or condition. Normal maintenance and repair shall not include reconstruction, change in design, change in structure, change in use, change in location, change in size or capacity.

**OWNER:** The person or persons having the right of legal title to, beneficial interest in, or a contractual right to purchase a lot or parcel of land.

**PARCEL:** The entire area of a tract of land before being divided by a development.

**PARKING LOT:** An open area other than a street used for the parking of more than four automobiles and available for public use whether free, for compensation, or an accommodation for clients or customers.

**PARKING SPACE:** A surfaced area, enclosed or unenclosed, sufficient in size to store one automobile together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

**PERFORMANCE STANDARD:** A criterion established to control the use of land and structures. The purpose of performance standards is to provide detailed regulations and



## Land Use Ordinance of the Town of East Millinocket

### SECTION VII: DEFINITIONS (Continued)

#### PERFORMANCE STANDARD (cont.)

restrictions by means of minimum criteria which must be met by uses in order to protect neighbors from adverse impacts of adjoining land uses and to protect the general health, safety and welfare of citizens of East Millinocket.

**RESTAURANT:** An establishment whose principal business is the sale of food and/or beverages to consumers in a ready-to-consume state, and whose principal method of operation includes one or both of the following characteristics.

1. Customers normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; or
2. A cafeteria type operation where food and beverages generally are consumed within the restaurant building.

**RETAIL ESTABLISHMENT:** Any business, housed in a permanent structure, engaged primarily in the sale of goods and services to the ultimate consumer for direct consumption and/or use, but not for resale.

**ROAD:** A thoroughfare or way 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.

**Private Road:** A thoroughfare or way designated for private use and maintained by a property owner or group of property owners.

**Public Road:** A public thoroughfare, way, or easement permanently established for passage of persons or vehicles.

**SETBACK:** The minimum distance from the edge of the traveled way or lot line to the nearest part of a structure.

**SIGN ITEMS:** Devise, model, banner, pennant, insignia, flag, or other representation which is used as, or in the nature of an advertisement, announcement or direction.

**Billboards:** Anything designed, intended or used for advertising a product, property, business, entertainment, service, amusement or the like, and not located where the matter advertised is available or occurs.

**Free Standing:** A sign supported by one or more uprights or braces permanently affixed into the ground.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

#### **SIGN ITEMS (cont.)**

**Portable:** A sign not designed or intended to be permanently affixed into the ground or to a structure.

**Roof:** A sign which is attached to a building and is displayed above the eaves of such building.

**Temporary:** A sign of a temporary nature, erected less than ninety (90) days, exemplified by the following: political poster, charitable signs, construction signs, carnival signs, garage sale signs, lawn sale signs, rummage sale signs, and all signs advertising sales of personal property, and for rent signs.

**Wall:** Any sign painted on, or attached to, the wall surface of a building and projecting therefrom not more than six (6) inches.

**Window:** Any on-premise, non-temporary sign visible from the exterior of the building or structure which is permanently painted, attached, glued, or otherwise affixed to a window.

**Sign Area:** The exposed surface of the sign including all ornamentation, embellishment, background, and symbols, but excluding the structure which does not form a part of the message of the sign measured in square feet.

#### **STRUCTURAL TERMS:**

**Building:** Any structure, maintained, or intended for use as shelter or enclosure of persons, animals, goods or property of any kind. This term is inclusive of any thereof. Where independent units with separate entrances are divided by walls, each unit is a building.

**Building Accessory:** A building which one (1) is subordinate in area, extent and purpose to the principal building or use served, (2) is located on the same lot as the principal building or use served except as otherwise expressly authorized by the provisions of this Ordinance, and three (3) is customarily incidental to the principal building or use. Any portion of a principal building devoted or intended to be devoted to an accessory use is not an accessory building.

## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

#### **STRUCTURAL TERMS (cont.)**

**Building, Principal:** A building (structure) is which is conducted or in which is intended to be conducted, the main or primary use of the lot on which it is intended.

**Dwelling:** A building or portion thereof, used exclusively for residential occupancy, including single-family, two family and multiple family dwellings.

**Dwelling Unit/Apartment:** A room or group or rooms designed and equipped exclusively for use as living quarters for only one (1) family, including provisions for living, sleeping, cooking and eating.

**Dwelling Unit/Single Family Dwelling:** A dwelling designed for and occupied by not more than (1) family and having no roof, wall or floor in common with any other dwelling unit. The term shall include manufactured and prefabricated homes.

**Dwelling, Two Family:** A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

**In-Law Apartments:** A separate dwelling unit which is located within and subordinate to a single family detached dwelling and which is occupied by a person or persons related to the owner and principal occupant of the dwelling unit by blood, marriage or adoption, whether or not said person or persons pay rent or share expenses with the owner thereof.

**Structure:** Anything constructed or erected, the use of which requires permanent location on, above or below the surface of the land, including a patio or deck.

**TRANSIENT:** A non-resident person residing within the Town of East Millinocket less than thirty (30) days.

**USE:** The purpose or activity for which land or any building thereon is designed, arranged, or intended, or for which it is occupied or maintained.

**Accessory Use:** A use subordinate to a permitted use located on the same lot, and customarily incidental to the permitted use.

**Principal Use:** The specific primary purpose for which land is used.



## **Land Use Ordinance of the Town of East Millinocket**

### **SECTION VII: DEFINITIONS** (Continued)

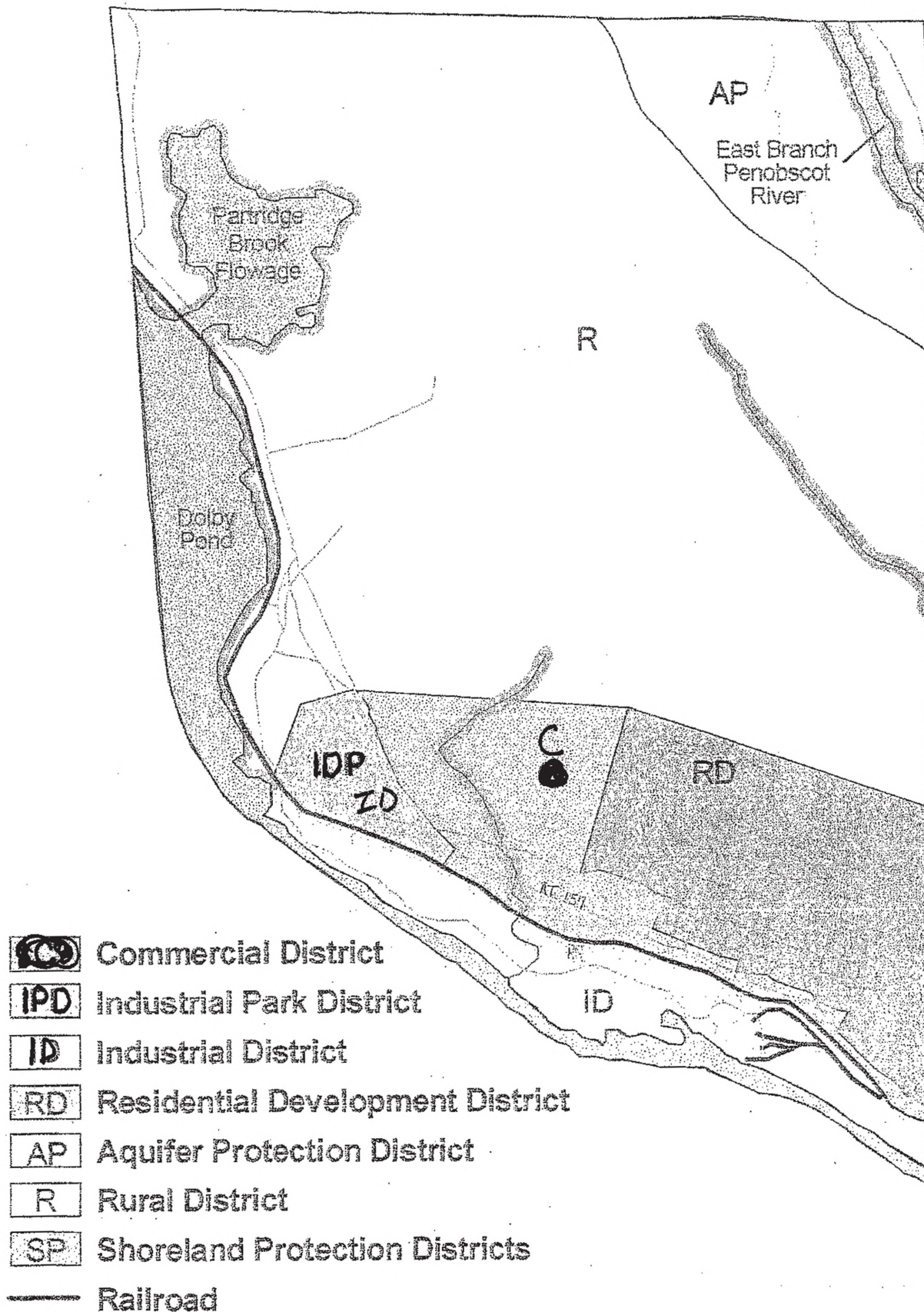
Conforming Use: A use which may be lawfully established in a particular district, provided it conforms with all the requirements, standards and regulations of such district.

Non-Conforming Use: A use which does not conform to the provisions of this Ordinance.

Open Space Use: A use which does not disturb the existing state of the land except to restore this land to a natural condition.

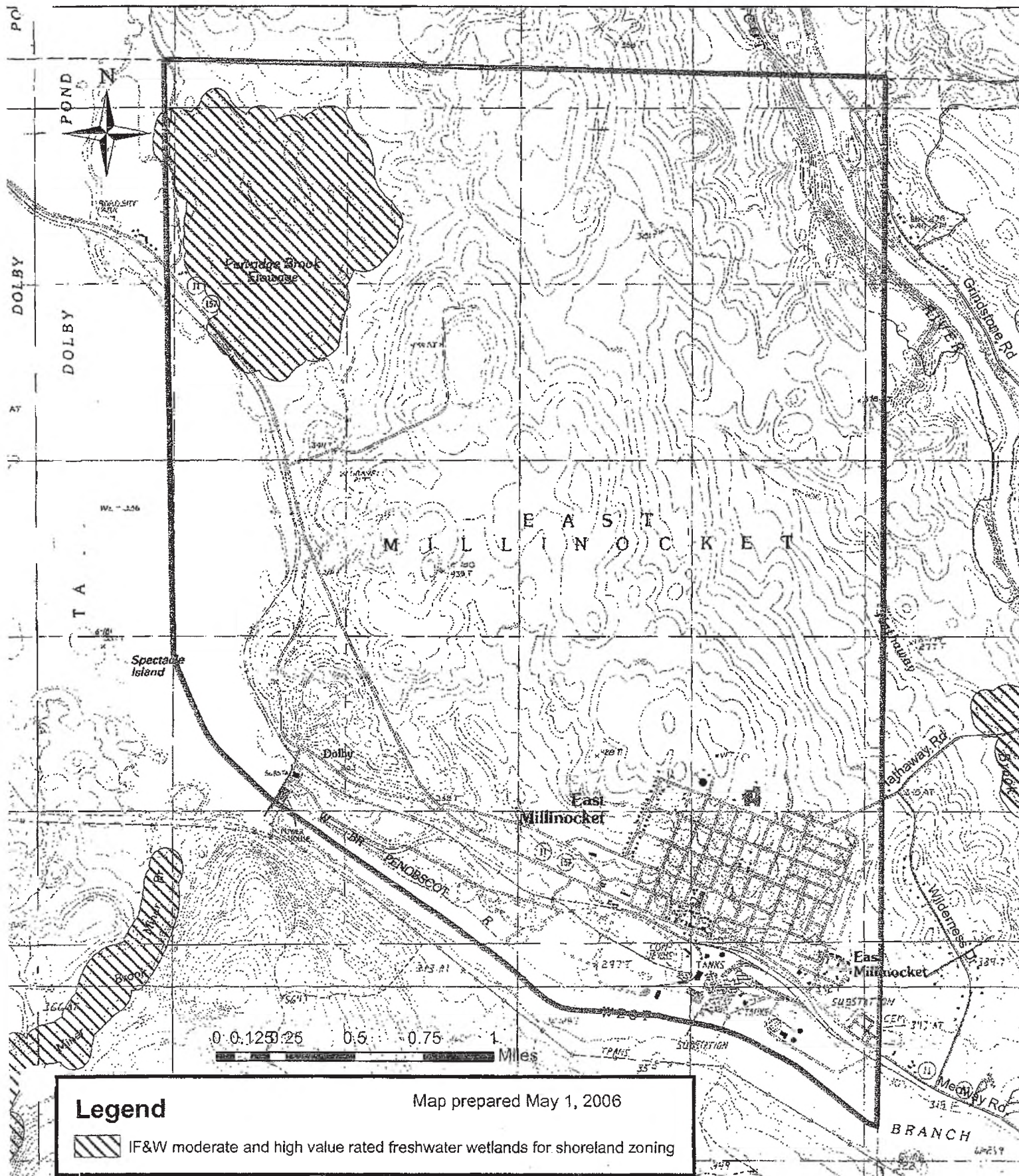
VARIANCE: A relaxation of the terms of this Ordinance where such a variance would not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of this Ordinance would result in unnecessary or undue hardship.

# Official Zoning Map of the Town of East Millinocket





# Town of East Millinocket Moderate & High Value Freshwater Wetlands



This map shows only moderate and high value rated freshwater wetlands. Please note that low value and non-rated freshwater wetlands are still required to be zoned, as they have been since 1989.



## APPENDIX A

### METES AND BOUNDS DESCRIPTIONS OF LAND USE DISTRICTS

#### **Residential Development District**

Residential District begins where the westerly line of land now or formerly owned by Christara Associates intersects with Church Street; thence, northerly along the westerly bound of Christara Associates and continuing in the same direction along an extension of the same line to a Point marking the extension of a line formed by a transmission line owned by Bangor Hydro Electric Company as said line runs in a generally east-west direction and parallel to North Street; thence easterly along said extension and the centerline of the Bangor Hydro Electric Company transmission line, continuing in the same direction to the easterly bound of the town; thence southerly along the easterly bound of the town to the intersection of the easterly bound of the town with Rt. 157; thence generally westerly along Rt. 157 to the intersection of Rt. 157 and Oak Street; thence in a northerly direction along the centerline of Oak Street to the intersection of the centerline of Oak Street with centerline of Main street, thence, continuing along the centerline of Main Street in a westerly direction to the intersection of Main Street and Maple street; thence continuing in a northerly direction along the centerline of Maple Street to the intersection of Maple Street with Main Street Alley, so called; thence in a westerly direction along Main Street Alley including land abutting the northerly bounds of Main Street Alley to the intersection of Main Street Alley and Cedar Street; thence continuing westerly to the northeast corner of Lot 6 in Block 11 and the Southeast corner Of Lot 7 in Block 11 as laid out on Great Northern Paper Company Site Plan of the Town of East Millinocket; thence continuing along the southerly bounds of Lots 7 and 12 in Block 11 to Western Avenue; thence along a continuation of the same line to the southeast corner of Lot 6 in Block 10 and the northeast corner of Lot 5 in Block 10 on said Plan; thence along the south bound of lots 6 and 11 in Block 10 and a continuation of said line to the center line of Cone St.; thence, northerly along the centerline of Cone Street to the intersection of Cone Street and Church Street; thence along the centerline of Church Street in a westerly direction to the westerly line of land now or formerly of Christara Associates and the point of beginning.

#### **Aquifer Protection District**

Beginning at a point where the westerly shore of the East Branch of the Penobscot River intersects the northerly line of the town; thence westerly along the northerly line of the town a distance of 2500 feet; thence generally southeasterly parallel with the westerly shore of the East Branch of the Penobscot River and at all times maintaining a distance of 2500 feet from the westerly shore of the East Branch of the Penobscot River to the easterly line of the town; thence northerly along the easterly line of the town to the westerly shore of the East Branch of the Penobscot River; thence northerly along the shore of the East Branch of the Penobscot River to the point of beginning.

#### **Commercial District**

Parcel one: A triangular parcel of land bounded on the east by the centerline of Oak Street, on the north by the centerline of Main Street, and on the south by the centerline of Rt. 157.

Parcel Two: Bounded on the east by the centerline of Maple Street, and an extension of said

centerline southerly to the B & A Railroad right of way, on the South by the B & A Railroad, on the north by the Residential District, and on the west by the centerline of Cone Street and an extension of the centerline of Cone Street southerly to the B & A Railroad right of way.

Parcel Three: Bounded on the east by the centerline of Cone Street, on the north by the centerline of Church Street Continuing along the centerline of Church Street as it becomes an extension of Old Rt. 157 continuing to the intersection of Old Rt. 157 with Rt. 157; bounded on the west by a line running from the intersection of Old Rt. 157 parallel with the east line of the town to the Bangor and Aroostook right of way; bounded on the south by the Bangor and Aroostook right of way.

Parcel Four: Beginning at the northwesterly corner of the Residential District; thence westerly along a continuation of the northerly line of the Residential District to the easterly line of Rt. 157; thence southerly along Rt. 157 to the intersection of discontinued old Rt. 157 and the north bound of Parcel Three; thence along the centerline of old Rt. 157 to Church St. and along the centerline of Church St. to the westerly line of the Residential District; thence northerly along the west bound of the Residential District to the point of beginning.

### **Industrial Park District**

The Industrial Park District consists of the area laid out on the Subdivision Plan for East Millinocket Industrial Park prepared by James W. Sewall Company dated September 18, 1989 and recorded in the Penobscot County Registry of Deeds In Map File D151-90.

### **Industrial District**

Beginning at a point where the easterly bank of Dolby Flowage intersects Dolby Dam; thence, following the shore of the West Branch of the Penobscot River to the point where the shore intersects the easterly line of the town; thence, along the easterly line of the town to the intersection of the easterly line of the town with Rt. 157; thence westerly along the centerline of Rt. 157 to the intersection of the centerline of Maple Street; thence, southerly along the centerline of Maple Street to the Bangor and Aroostook Rail Road right of way; thence westerly along the Bangor and Aroostook right of way to the intersection of the Bangor and Aroostook right of way with the road forming the western most entrance to the Great Northern Paper Company Mill complex, now used for the delivery of forest products; thence easterly along said entrance road to the intersection of Rt. 157; thence northerly along the centerline of Rt. 157 to a point where the Industrial Park District intersects Rt. 157- thence generally southerly and westerly along the easterly and southerly bound of the Industrial Park District to the discontinued access road leading to Dolby Dam; thence generally southerly along the centerline of said discontinued Dolby Dam access road to the point where Dolby Dam intersects the easterly shore of Dolby Flowage and the point of beginning.

### **Rural District**

The Rural District consists of all remaining areas within the limits of the Town of East Millinocket not classified as lying within the Commercial District, Residential District, Industrial District, Aquifer Protection District, Shoreland Protection Districts or Industrial Park District.

# ARTICLE 74

## FLOODPLAIN MANAGEMENT ORDINANCE

### FOR THE

### TOWN OF EAST MILLINOCKET, MAINE

ENACTED: Annual T/M  
05/24/1994  
Date

CERTIFIED BY: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Affix Seal

## STATEMENT OF PURPOSE AND INTENT

Certain areas of the Town of East Millinocket, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of Federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of East Millinocket, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in the attached Floodplain Management Ordinance.

It is the intent of the Town of East Millinocket, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

This body has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to MRSA Title 30A, Sections 3001-3007, 4352 and 4401-4407.

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60.3(b) Rev. 10/93



## FLOODPLAIN MANAGEMENT ORDINANCE

### ARTICLE I - ESTABLISHMENT

The Town of East Millinocket, Maine elects to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended). The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of East Millinocket, Maine.

The areas of special flood hazard, identified by the Federal Emergency Management Agency in a map entitled "Flood Insurance Rate Map - Town of East Millinocket, Maine, Penobscot County," dated February 4, 1987, is hereby adopted by reference and declared to be a part of this Ordinance.

### ARTICLE II - PERMIT REQUIRED

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

### ARTICLE III - APPLICATION FOR PERMIT

The application for a Flood Hazard Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure;
- E. A statement as to the type of sewage system proposed;

- F. Specification of dimensions of the proposed structure;
- G. The elevation in relation to the National Geodetic Vertical Datum (NGVD) or to a locally established datum, of the:
  - 1. base flood at the proposed site of all new or substantially improved structures, which in Zone A is determined to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
  - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
  - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
  - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- H. A description of a base flood elevation reference point established on the site of all new or substantially improved structures;
- I. A written certification by a registered land surveyor that the elevations shown on the application are accurate;
- J. Certification by a registered professional engineer or architect that floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.G.4; Article VI.G; and other applicable standards in Article VI.
- K. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- L. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

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

A non-refundable application fee of \$.01 per square foot shall be paid to the Town Treasurer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the Code Enforcement Officer and/or Board of Appeals needs the assistance of a professional engineer or other expert. The expert's fee shall be paid in full by the applicant within 10 days after the town submits a bill to

the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

#### ARTICLE V - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer/Planning Board shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed building sites are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Rate Map - Town of East Millinocket, Maine," as described in Article I. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer/Planning Board shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other sources, including information obtained pursuant to Articles III.G.1.b.; VI.I; and VIII.D, in order to administer Article VI of this Ordinance;
- C. Make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in Article I of this Ordinance;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Department of Environmental Protection, and the Maine Office of Community Development prior to any alteration or relocation of a water course;
- F. Issue a two part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant

to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with an application for Part II of the Flood Hazard Development Permit and shall include an Elevation Certificate completed by a registered Maine surveyor for compliance with the elevation requirements of Article VI, paragraphs F, G, H, and K. Following review of the application, which review shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; and,

- G. Maintain, as a permanent record, copies of all Flood Hazard Development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Article IX of this Ordinance, and copies of Elevation Certificates and Certificates of Compliance required under the provisions of Article VII of this Ordinance.

#### ARTICLE VI - DEVELOPMENT STANDARDS

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

- A. New construction or substantial improvement of any structure shall:
1. be designed or modified and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  2. use construction materials that are resistant to flood damage;
  3. use construction methods and practices that will minimize flood damage; and,
  4. use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- B. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.

- C. All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- D. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- E. All development shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of any watercourse.
- F. New construction or substantial improvement of any residential structure located within Zone A shall have the lowest floor (including basement) elevated to one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D.
- G. New construction or substantial improvement of any non - residential structure located within Zone A shall have the lowest floor (including basement) elevated to one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D, or together with attendant utility and sanitary facilities shall:
  - 1. be floodproofed to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D, so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
  - 2. have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
  - 3. be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a Flood Hazard Development Permit, as required by Article III, paragraph J and shall include a record of the elevation above mean sea level of the lowest floor including basement.



- H. New or substantially improved manufactured homes shall:
1. be elevated on a permanent foundation such that the lowest floor is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III, paragraph G.1.; Article V, paragraph B; or Article VIII, paragraph D; and,
  2. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - a. secure anchoring to an adequately anchored foundation system; or by,
    - b. over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - c. frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - d. All components of the anchoring system described in Article VI, paragraph H.1.b.(1)(2) shall be capable of carrying a force of 4800 pounds.
- I. Floodways - encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in a floodway which, in Zone A riverine areas, is the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing or anticipated development:
1. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
  2. is consistent with the technical criteria contained in Section 2-7 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/September, 1985, as amended).

J. New construction or substantial improvement of any structure in Zones A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or has crawlspaces less than three feet in height may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

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

## ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

- A. The applicant shall submit an Elevation Certificate completed by:
  - 1. a registered Maine surveyor for compliance with Article VI, paragraphs F, G, or H; and,
  - 2. a registered professional engineer or architect, in the case of floodproofed non-residential structures, for compliance with Article VI. paragraph G.
- B. The application for a Certificate of Compliance shall be submitted by the applicant in writing along with a completed Elevation Certificate to the Code Enforcement Officer.
- C. The Code Enforcement Officer shall review the application within 10 working days of receipt of the application and shall issue a Certificate of Compliance, provided the building conforms with the provisions of this Ordinance.

## ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data.
- E. Any proposed development plan shall include a statement that the developer will require that structures on lots in the development be constructed in accordance with Article VI of



this ordinance and that such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The 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 any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

#### ARTICLE IX - APPEALS AND VARIANCES

The Board of Appeals of the Town of East Millinocket may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Planning Board/Code Enforcement Officer in the administration of the provisions of this Ordinance. The Board of Appeals may grant a variance from the requirements of this Ordinance consistent with state law and the following criteria:

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
  - 1. a showing of good and sufficient cause; and,
  - 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,
  - 3. a showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and,
  - 4. a determination that failure to grant the variance would result in "undue hardship," which in this sub-section means:
    - a. that the land in question cannot yield a reasonable return unless a variance is granted; and,

- b. that the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
  - c. that the granting of a variance will not alter the essential character of the locality; and,
  - d. that the hardship is not the result of action taken by the applicant or a prior owner.
- C. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- D. Variances may be issued by a community for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:
  - 1. other criteria of Article IX and Article VI-I are met; and,
  - 2. the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- E. Variances may be issued by a community for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or a State Inventory of Historic Places, without regard to the procedures set forth in Article IX, paragraphs A through D.
- F. Any applicant who meets the criteria of Article IX, paragraphs A through E shall be notified by the Board of Appeals in writing that:
  - 1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 Per \$100 of insurance coverage;
  - 2. such construction below the base flood level increases risks to life and property; and,
  - 3. the applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a floodplain and that the applicant individually releases the municipality from any claims the applicant may have

against the municipality that are related to the use of land located in a floodplain.

- G. The Board of Appeals shall submit to the Planning Board/Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Planning Board/Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

#### ARTICLE X - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance pursuant to 30A MRSA § 4452.
- B. The penalties contained in 30A MRSA § 4452 apply to any violation of this ordinance.
- C. In addition to any other actions, the Code Enforcement Officer, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of;
1. the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  2. a clear and unequivocal declaration that the property is in violation of a cited State or local law or ordinance;
  3. a statement that the public body making the declaration has the authority to do so and a citation to that authority;
  4. evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  5. a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

#### ARTICLE XI - VALIDITY AND SEVERABILITY

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

## ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

## ARTICLE XIII - DEFINITIONS

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

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

**Area of a Shallow Flooding** - means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

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

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

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

**Breakaway Wall** - means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

**Building** - see Structure.

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

**Code Enforcement Officer** - any person or board responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.

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

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

- (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, or AH, to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and
- (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, AE, A, A99, AO, or AH, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with openings sufficient to facilitate the unimpeded movement of flood waters.

**Elevation Certificate** - An official form (FEMA Form 81-31, 05/90, as amended) that:

- (i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program; and
- (ii) is required for purchasing flood insurance.

**Flood or Flooding** - means:

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



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

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

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

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

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

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

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

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

**Floodway** - see Regulatory Floodway.

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

**Freeboard** - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors, such

as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.

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

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

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

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

**Lowest Floor** - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access



or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements described in Article VI of this ordinance.

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

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

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

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

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

**Regulatory Floodway** -

- (i) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and
- (ii) in riverine areas is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

**Start of Construction** - means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, substantial improvement or other improvement was within 180 days of the

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

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

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

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

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structures's continued designation as a historic structure.

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

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

ARTICLE XIV - ABROGATION

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

60.3(b)

# LIVESTOCK ORDINANCE

Section A: Requirements. No person shall have charge of any livestock or non-domestic animals on residential lots that are less than 0.50 acres with the exception of chickens. Roosters are strictly prohibited.

Section B: Violations and Enforcement. This ordinance will be enforced pursuant to Title 30-A Subchapter 5 §4452 subsections 1 through 3 which are attached.

## DOMESTICATED CHICKENS

### Section 1.1 Purpose.

The purpose of this article is to provide standards for the keeping of domesticated chickens. The article is intended to enable residents to keep a small number of female chickens while limiting the potential adverse impacts on the surrounding neighborhood.

### Section 1.2 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Chicken pen.* An enclosure connected to a henhouse for the purpose of allowing chickens to leave the henhouse while remaining in an enclosed, predator-safe environment.

*Enclosure:* The combined area of a henhouse and chicken pen.

*Henhouse:* A structure for the sheltering of female chickens. A legally existing nonconforming detached shed, garage or barn that may be located within the required district setback can be used for this purpose if it meets all other standards contained in this article.

### Section 1.3 Keeping of domesticated chickens located in growth area.

- (a) No more than six (6) chickens shall be allowed per single-family dwelling property. No chickens shall be permitted within multi-family complexes, including duplexes.
- (b) Only female chickens are permitted with no restriction of chicken species.
- (c) Chickens shall be kept only for personal use.
- (d) Advertising the sale of eggs, chicken breeding or fertilizer production is prohibited.

#### **Section 1.4 Enclosure.**

- (a) Chickens must be kept in a secure henhouse or chicken pen area at all times. At no time shall chickens be kept in a residence including attached structures.
- (b) Chickens shall be secured within the henhouse during non-daylight hours.
- (c) Enclosures must be clean, dry and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of abutters due to noise, odor or other adverse impact.
- (d) An enclosure shall not be located in the front yard.

#### **Section 1.5 Henhouse.**

- (a) A henhouse shall be provided and designed to provide safe and healthy living conditions for the chickens while minimizing adverse impacts to abutters.
- (b) The structures shall be fully enclosed with latchable doors and windows. Windows and vents must be covered with predator and bird proof wire of less than one-inch openings.
- (c) The henhouse shall be well maintained. The use of scrap, waste board, sheet metal, or similar materials for the construction of the structure is prohibited.
- (d) Henhouses shall only be located in rear yards. In case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no case shall the henhouse be closer than ten (10) feet to the side property line
- (e) No henhouse shall be located within ten (10) feet of a rear or side property line.

#### **Section 1.6 Chicken pens.**

- (a) Chicken pens may be provided. Where provided, the chicken pen shall be attached to the henhouse and the walls shall be constructed of sturdy wire fencing, other than chicken wire, and buried at least twelve (12) inches in the ground. The roof shall be covered with the wire,

aviary netting, chicken wire or solid roofing in a manner to prevent the escape of chickens.

- (b) Chicken pens shall only be located in rear yards. In the case of a corner lot, a side yard may be used in accordance with applicable zoning district setbacks but in no cases shall the henhouse be closer than ten (10) feet to the side property line.
- (c) No chicken pen shall be located within ten (10) feet of a rear or side property line.

#### **Section 1.7 Odor, noise and lighting.**

- (a) Odors from chickens shall not be a disturbance to abutters.
- (b) Perceptible noise from chickens shall not be a disturbance to abutters.
- (c) Only motion-activated lighting may be used to light the exterior of the henhouse.

#### **Section 1.8 Waste storage and removal.**

Provisions must be made for the storage and removal of chicken manure. All stored manure shall be covered by a fully enclosed structure with a roof line or lid over the entire structure. All other manure not used for composting or fertilizing shall be removed from the property.

#### **Section 1.9 Licensing requirements.**

A person who keeps domesticated chickens shall obtain a license for a fee of ten (\$10.00). The license shall expire annually on the last day of April. The license shall be issued by the Town Clerk after favorable inspection by the East Millinocket Code Enforcement Officer. The ten dollar (\$10.00) fee is nonrefundable if the license is not approved. There will be a late fee assessed to licenses that have expired, in the amount of 10 dollars (\$10.00). The fine will double after the license has been expired for more than thirty (30) days.













#### **Section 1.10 Penalty.**

In addition to any other enforcement action which the town may make, violation of any provision of this article shall be a civil violation and a fine not exceeding one hundred dollars (\$100.00) may be imposed. Each day that a violation continues will be treated as a separate offense.

#### **Section 1.11**

Any violation of the provisions of this article or of the license shall be grounds for an order from the Code Enforcement Officer to remove the chickens and the chicken related structures. The animal control officer may also order the removal of the chickens upon a determination that the chickens pose a health risk. If a chicken dies, it must be disposed of promptly in a sanitary manner.

## Maine Revised Statutes

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	<a href="#">CH. 187 CONTENTS</a>
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<b><u>§4451</u></b>	<b>Title 30-A:</b>	<b><u>§4453</u></b>
	<b>MUNICIPALITIES AND COUNTIES</b>	
	<b>HEADING: PL 1987, C. 737, PT. A, §2 (NEW)</b>	
	<b>Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737,</b>	
	<b>PT. A, §2 (NEW)</b>	
	<b>Subpart 6-A: PLANNING AND LAND USE</b>	
	<b>REGULATION HEADING: PL 1989, C. 104, PT. A,</b>	
	<b>§45 (NEW)</b>	
	<b>Chapter 187: PLANNING AND LAND USE</b>	
	<b>REGULATION HEADING: PL 1989, C. 104, PT. A,</b>	
	<b>§45 (NEW)</b>	
	<b>Subchapter 5: ENFORCEMENT OF LAND USE</b>	
	<b>REGULATIONS HEADING: PL 1989, C. 104, PT. A,</b>	
	<b>§45 (NEW)</b>	

### §4452. Enforcement of land use laws and ordinances

**1. Enforcement.** A municipal official, such as a municipal code enforcement officer, local plumbing inspector or building official, who is designated by ordinance or law with the responsibility to enforce a particular law or ordinance set forth in subsection 5, 6 or 7, may:

A. Enter any property at reasonable hours or enter any building with the consent of the owner, occupant or agent to inspect the property or building for compliance with the laws or ordinances set forth in subsection 5. A municipal official's entry onto property under this paragraph is not a trespass; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Issue a summons to any person who violates a law or ordinance, which the official is authorized to enforce; and [1993, c. 23, §1 (AMD).]












C. When specifically authorized by the municipal officers, represent the municipality in District Court in the prosecution of alleged violations of ordinances or laws, which the official is authorized to enforce. [1993, c. 23, §1 (AMD).]

[ 1993, c. 23, §1 (AMD); 2007, c. 699, §24 (REV) .]

**2. Liability for violations.** Any person, including, but not limited to, a landowner, the landowner's agent or a contractor, who violates any of the laws or ordinances set forth in subsection 5 or 6 is liable for the penalties set forth in subsection 3.

[ 1991, c. 732, §2 (AMD) .]

3. Civil penalties. The following provisions apply to violations of the laws and ordinances set forth in subsection 5. Except for paragraph H, monetary penalties may be assessed on a per-day basis and are civil penalties.

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A. The minimum penalty for starting construction or undertaking a land use activity without a required permit is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. The minimum penalty for a specific violation is \$100, and the maximum penalty is \$2,500. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B-1. Notwithstanding paragraph B, the maximum penalty is \$5,000 for any violation of a law or an ordinance set forth in subsection 5, paragraph Q, if the violation occurs within an area zoned for resource protection. [1999, c. 370, §1 (NEW).]

C. The violator may be ordered to correct or abate the violations. When the court finds that the violation was willful, the violator shall be ordered to correct or abate the violation unless the abatement or correction results in:











- (1) A threat or hazard to public health or safety;
- (2) Substantial environmental damage; or
- (3) A substantial injustice. [1989, c. 727, §1 (AMD).]

C-1. [2007, c. 92, §1 (RP).]

C-2. Notwithstanding paragraph C, for violations of the laws and ordinances set forth in subsection 5, paragraph Q, the provisions of this paragraph apply. The court must order the violator to correct or mitigate the violation unless the correction or mitigation would result in a threat or hazard to public health or safety, substantial environmental damage or a substantial injustice.

(1) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of a tree or trees must include, but is not limited to, replacement of each tree cut with a tree or trees of varying size and species such that the visual impact from the cutting will be remediated, the tree canopy that was cut will be restored within a reasonable time period and a total basal area equal to at least 50% of the basal area cut will be replanted.

(2) Except for timber harvesting, correction or mitigation of a violation that involves the cutting of understory vegetation must include, but is not limited to, replacement of the understory vegetation with understory vegetation of substantially similar size and species to the extent reasonably available and feasible.

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(3) For violations requiring correction or mitigation pursuant to subparagraph (1) or (2), the violator shall submit to the municipality a reforestation plan and 5-year management plan developed with and signed by a forester licensed pursuant to Title 32, chapter 76 or other qualified professional. The reforestation plan must include consideration of specified site conditions and address habitat and other riparian restoration, visual screening, understory vegetation and erosion and sedimentation control. The management plan must address how the replacement trees must be maintained to enable the trees to grow to a healthy, mature height.

For purposes of this paragraph, "timber harvesting" has the same meaning as in Title 38, section 438-B, subsection 1, paragraph C.

For purposes of this paragraph, "understory vegetation" means all saplings that measure less than 2 inches in diameter at 4.5 feet above ground level and all shrubs. [2011, c. 228, §1 (AMD).]

D. If the municipality is the prevailing party, the municipality must be awarded reasonable attorney fees, expert witness fees and costs, unless the court finds that special circumstances make the award of these fees and costs unjust. If the defendant is the prevailing party, the defendant may be awarded reasonable attorney fees, expert witness fees and costs as provided by court rule. [1989, c. 727, §1 (AMD).]

E. In setting a penalty, the court shall consider, but is not limited to, the following:

- (1) Prior violations by the same party;
- (2) The degree of environmental damage that cannot be abated or corrected;
- (3) The extent to which the violation continued following a municipal order to stop; and
- (4) The extent to which the municipality contributed to the violation by providing the violator with incorrect information or by failing to take timely action. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. The maximum penalty may exceed \$2,500, but may not exceed \$25,000, when it is shown that there has been a previous conviction of the same party within the past 2 years for a violation of the same law or ordinance. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

G. The penalties for violations of a septage land disposal or storage site permit issued by the Department of Environmental

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Protection under Title 38, chapter 13, subchapter 1, are as prescribed in Title 38, section 349. [1997, c. 794, Pt. A, §1 (AMD).]

H. If the economic benefit resulting from the violation exceeds the applicable penalties under this subsection, the maximum civil penalties may be increased. The maximum civil penalty may not exceed an amount equal to twice the economic benefit resulting from the violation. Economic benefit includes, but is not limited to, the costs avoided or enhanced value accrued at the time of the violation as a result of the violator's noncompliance with the applicable legal requirements. [1989, c. 727, §1 (NEW).]

[ 2011, c. 228, §1 (AMD) .]

**4. Proceedings brought for benefit of municipality.** All proceedings arising under locally administered laws and ordinances shall be brought in the name of the municipality. All fines resulting from those proceedings shall be paid to the municipality.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**5. Application.** This section applies to the enforcement of land use laws and ordinances or rules that are administered and enforced primarily at the local level, including:

A. The plumbing and subsurface waste water disposal rules adopted by the Department of Health and Human Services under Title 22, section 42, including the land area of the State that is subject to the jurisdiction of the Maine Land Use Planning Commission; [2007, c. 699, §18 (AMD); 2011, c. 682, §38 (REV).]

B. Laws pertaining to public water supplies, Title 22, sections 2642, 2647 and 2648; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]











C. Local ordinances adopted pursuant to Title 22, section 2642; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. Laws administered by local health officers pursuant to Title 22, chapters 153 and 263; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

E. Laws pertaining to fire prevention and protection, which require enforcement by local officers pursuant to Title 25, chapter 313; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

F. Laws pertaining to the construction of public buildings for the physically disabled pursuant to Title 5, sections 4582-B, 4582-C and 4594-F; [2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF).]



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G. Local land use ordinances adopted pursuant to section 3001; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

H. [2007, c. 699, §18 (RP).]

I. [2007, c. 699, §18 (RP).]

J. Laws pertaining to junkyards, automobile graveyards and automobile recycling businesses and local ordinances regarding junkyards, automobile graveyards and automobile recycling businesses, pursuant to chapter 183, subchapter 1 and Title 38, section 1665-A, subsection 3; [2007, c. 699, §18 (AMD).]

K. Local ordinances regarding electrical installations pursuant to chapter 185, subchapter 2; [2007, c. 699, §18 (AMD).]

L. Local ordinances regarding regulation and inspection of plumbing pursuant to chapter 185, subchapter 3; [2007, c. 699, §18 (AMD).]

M. Local ordinances regarding malfunctioning subsurface waste water disposal systems pursuant to section 3428 and laws regarding malfunctioning subsurface waste water disposal systems pursuant to Title 38, section 424-A; [2007, c. 568, §6 (AMD).]

N. The subdivision law and local subdivision ordinances adopted pursuant to section 3001 and subdivision regulations adopted pursuant to section 4403; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]











O. Local zoning ordinances adopted pursuant to section 3001 and in accordance with section 4352; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

P. Wastewater discharge licenses issued pursuant to Title 38, section 353-B; [1999, c. 127, Pt. A, §46 (AMD).]

Q. Shoreland zoning ordinances adopted pursuant to Title 38, sections 435 to 447, including those that were state-imposed; [2005, c. 240, §4 (AMD).]

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; [2007, c. 112, §4 (AMD).]

S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; [2007, c. 661, Pt. A, §1 (AMD); 2007, c. 699, §18 (AMD).]

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T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations; [RR 2007, c. 2, §16 (COR).]

U. Standards under a wind energy development certification issued by the Department of Environmental Protection pursuant to Title 35-A, section 3456 if the municipality chooses to enforce those standards; and [RR 2007, c. 2, §17 (COR).]

*(Paragraph U as enacted by PL 2007, c. 699, §18 is REALLOCATED TO TITLE 30-A, SECTION 4452, SUBSECTION 5, PARAGRAPH V)*

V. (REALLOCATED FROM T. 30-A, §4452, sub-§5, ¶U) The Maine Uniform Building and Energy Code, adopted pursuant to Title 10, chapter 1103. [RR 2007, c. 2, §18 (RAL).]

[ 2011, c. 613, §28 (AMD); 2011, c. 613, §29 (AFF); 2011, c. 682, §38 (REV) .]

6. Septage and sludge permits issued by the Department of Environmental Protection. A municipality, after notifying the Department of Environmental Protection, may enforce the terms and conditions of a septage land disposal or storage site permit or a sludge land application or storage site permit issued by the Department of Environmental Protection pursuant to Title 38, chapter 13, subchapter 1.

[ 1997, c. 38, §1 (AMD) .]

7. Natural resources protection laws. A code enforcement officer, authorized by a municipality to represent that municipality in District Court and certified by the former State Planning Office or the Department of Economic and Community Development, Office of Community Development under section 4453 as familiar with court procedures, may enforce the provisions of Title 38, section 420-C, Title 38, chapter 3, subchapter 1, article 5-A and Title 38, chapter 13-D by instituting injunctive proceedings or by seeking civil penalties in accordance with Title 38, section 349, subsection 2.


[ 2011, c. 655, Pt. FF, §9 (AMD); 2011, c. 655, Pt. FF, §16 (AFF) .]


#### SECTION HISTORY

1989, c. 104, §SA45, C10 (NEW). 1989, c. 287, §§3, 4 (AMD). 1989, c. 727, §1 (AMD). 1991, c. 548, §D6 (AMD). 1991, c. 732, §§1-4 (AMD). RR 1993, c. 1, §77 (COR). 1993, c. 23, §§1, 2 (AMD). 1995, c. 58, §1 (AMD). 1995, c. 704, §B1 (AMD). 1995, c. 704, §C2 (AFF). 1997, c. 38, §1 (AMD). 1997, c. 296, §8 (AMD). 1997, c. 794, §A1 (AMD). 1999, c. 127, §A46 (AMD). 1999, c. 370, §1 (AMD). 2003, c. 689, §B6 (REV). 2005, c. 148, §1 (AMD). 2005, c. 240, §§4-6 (AMD). RR 2007, c. 2, §§16-18 (COR). 2007, c. 92, §§1, 2 (AMD). 2007, c. 112, §§4-6 (AMD). 2007, c. 568, §6 (AMD). 2007, c. 569, §1 (AMD). 2007, c. 661, Pt.




A, §§1-3 (AMD). 2007, c. 699, §18 (AMD). 2007, c. 699, §24 (REV). 2011, c. 228, §1 (AMD). 2011, c. 613, §28 (AMD). 2011, c. 613, §29 (AFF). 2011, c. 655, Pt. FF, §9 (AMD). 2011, c. 655, Pt. FF, §16 (AFF). 2011, c. 682, §38 (REV).

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State House Room 108  
Augusta, Maine 04333-0007**



TOWN OF EAST MILLINOCKET  
53 Main Street  
East Millinocket, Maine  
Tel. 207-746-3376

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## Application for the Keeping of Domesticated Chickens

Applicant Name: \_\_\_\_\_

Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_ Date: \_\_\_\_\_

Annual Chicken License Application fee is \$10. Expires April 30<sup>th</sup>.

There will be a late fee of \$10 for licenses that have expired. The fine will double after the license has been expired for more than thirty (30) days.

An inspection by Animal Control and Code Enforcement are required before a license can be issued. Please contact the Animal Control Officer at 746-3555 and the Code Enforcement Officer at 723 -7005 to make your appointment.

☐ Approval from Code Enforcement Office: \_\_\_\_\_

Date Signed: \_\_\_\_\_

☐ Approval from Animal Control Office: \_\_\_\_\_

Date Signed: \_\_\_\_\_

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Paid Fee: \$ \_\_\_\_\_

Cash / Check Date: \_\_\_\_\_

## NUDITY CONTROL ORDINANCE

### ARTICLE I - PURPOSE

Section 1. The purpose of this Ordinance is to regulate nudity as a form of commercial exploitation and to regulate dress as a form of conduct and not to impede the free exchange and expression of ideas. The conduct regulated is that which the Community and Board of Selectmen in public meeting have clearly found to be offensive to the general welfare, public safety, order and morals of the Town of East Millinocket and its citizens.

### ARTICLE II - DEFINITIONS

Section 2.1 THEATER - As used in this Ordinance "theater" means:

- a. building, playhouse, hall or other place having a permanent stage upon which moveable scenery and theatrical or vaudeville or similar performances are given and permanently affixed seats so arranged that a body of spectators can have an unobstructed view of the stage, or
- b. A building, room, hall or other place whose primary function is to present movies or motion pictures and has a permanent movie screen and affixed seats so arranged that a body of spectators can have an unobstructed view of said screen, or
- c. An open-air or "drive-in" movie having a permanently affixed movie screen, and permanently affixed devices for broadcasting the soundtracks of movies or motion pictures inside of the patrons' vehicles.

### ARTICLE III - PROHIBITIONS

Section 3.1 It shall be unlawful for a person who, while acting as a sales person, waiter, waitress, entertainer, or in any other capacity as an owner, manager, or employee in a business subject to laws of the Town of East Millinocket:

- a. To expose his or her genitals, pubic hair, buttocks, perineum or anus; or
- b. To expose any portion of the female breasts at or below the areola.

Section 3.2 It shall be unlawful for a person to cause, permit, procure, counsel or assist any person to expose himself/herself as prohibited by Section 3.1 of this Ordinance.

Section 3.3 It shall be unlawful for a person operating a business subject to license under the laws of the Town of East Millinocket to, at place of business, display, cause or permit the display of photographs, covers of magazines, newspapers or other printed matter which exposes or shows genitals, pubic hair, buttocks, perineum, anus, or female breasts at or below the areola, in such manner that the photographs, covers or magazines, newspapers or other printed materials are visible to children or unwilling adults.

### ARTICLE IV - EXCEPTIONS

Section 4.1 Sections 2.1 and 2.2 (sic) of this ordinance do not apply to:

- a. A theater or similar establishment which is primarily devoted to theatrical performances or the presentation of movies.

Section 4.2 This ordinance does not apply to any act authorized or prohibited by any statute of the State of Maine.

#### ARTICLE V - PENALTIES

Section 5.1 Any act made unlawful by this ordinance and any violation of this ordinance shall be punishable by a fine of not more than five-hundred (\$500.00) dollars for each offense. Each day that said unlawful act or violation continues shall be considered a separate offense.

Section 5.2 In addition to any other penalty provided by the law, the commission of acts prohibited by this ordinance shall constitute a nuisance and may be abated by the Town by seeking an injunction to prohibit further and continued violation.

#### ARTICLE VI - VALIDITY

Section 6.1 If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance.

Adopted May 1, 1991

## OUTDOOR WOOD BOILERS ORDINANCE

### 86-01. TITLE.

This ordinance shall be known as the Outdoor Wood Boilers Ordinance.

### 86-02. STATEMENT OF PURPOSE.

The purpose of this ordinance is to ensure that outdoor wood boilers are operated in a manner that limit particulate discharges, create no nuisance to neighbors, and protect members of the community from harmful levels of smoke and other emissions.

### 86-03. LEGISLATIVE INTENT AND FINDINGS.

- A. Outdoor wood boilers are alternative sources for heat and hot water production and when operated improperly create significant amounts of particulate and smoke discharges that threaten public health, welfare, and safety.
- B. Outdoor wood boilers are becoming more common, but government at the federal and state levels has not yet addressed their emissions issues, although the U.S. Environmental Protection Agency is currently considering regulations for outdoor wood boilers.
- C. Most people in East Millinocket live within a tight compact area where significant emissions from outdoor wood boilers have very negative effects or potential effects on the personal health and enjoyment of property of residents.
- D. It is the intent of this chapter to serve the Town's compelling interest to promote, protect, and improve the health, safety, and welfare of the citizens of East Millinocket by regulating outdoor wood boilers within its borders.
- E. Authority for this Ordinance is found in Article 8, Part 2, ss1 of the State of Maine Constitution, also known as the "Home Rule" provision.

### 86-04. PERMIT REQUIRED.

No person shall install, use, or maintain an outdoor wood boiler within the Town of East Millinocket without first having obtained a permit from the Code Enforcement Officer. Application for such permit shall be made to the Code Enforcement Officer on forms provided. The permit fee shall be \$50.00 and this fee may be adjusted by Selectmen Order. Owners of outdoor wood boilers at the time this Ordinance takes effect shall be exempt from the permit fee, but will still be required to submit a permit application.

86-05. EXISTING OUTDOOR WOOD BOILERS. Any outdoor wood boiler in existence, installed, and operating/operable on the effective date of this ordinance shall be allowed to remain provided that the owner applies for and receives a permit from the Code Enforcement Officer within sixty (60) days of such effective date, provided, however, that upon the effective date of this ordinance all the provisions hereof, except for those found in Section 86-06, Paragraph B below, shall immediately apply to existing

outdoor wood boilers. All of the provisions of the ordinance shall continue to apply to existing outdoor wood boilers which receive permits, except in Section 86-06, Paragraph B. If the owner of an outdoor wood boiler does not receive a permit within sixty (60) days of the effective date of this ordinance, the owner shall immediately cease operations of the boiler until such time as the conditions for a permit are met. "Existing" or "in existence" means that the outdoor wood boiler is in place on site.

#### 86-06. SPECIFIC REQUIREMENTS.

- A. Permitted Fuel. Only seasoned firewood and untreated lumber are permitted to be burned in an outdoor wood boiler. Burning of any and all other materials in an outdoor wood boiler is expressly prohibited.
- B. Distance Requirement. No outdoor wood boiler shall be installed less than fifty (50) feet from a neighboring residence. On lots of three (3) or more acres, a property owner shall install a boiler no less than one hundred (100) feet from any lot line.
- C. Emissions maximum. Particulate discharges shall be no greater than 27.4 grams per 100,000 British Thermal Units (BTU) per hour, as rated by a certified testing laboratory for the outdoor wood boiler unit. Should the U.S. Environmental Protection Agency or the Maine Department of Environmental Protection adopt a stricter emissions standard, that stricter standard shall be automatically considered as adopted by this Chapter. The outdoor boiler shall be required to display a listing plate on the unit that certifies that the unit is in compliance with the appropriate emissions standard, as determined by a qualified testing facility using appropriate and applicable Underwriter Laboratories standards.
- D. Certification. Any outdoor wood boiler located in East Millinocket shall be certified to Standard 391 of Underwriters Laboratories (UL).
- E. Stack Height. The stack height of an outdoor wood boiler will be at least 24 inches above the roof line of the closest neighbors' residence abutting the property where the boiler is installed. On lots of three (3) or more acres, a property owner shall install a stack of no less than twelve (12) feet high.
- F. Months of Operation. Outdoor wood boilers may be operated only between October 15 and April 15 of each year.
- G. Replacements. If an outdoor wood boiler is replaced or upgraded, a permit shall be required pursuant to Section 86-04 above and shall comply with all Sections of this ordinance.

#### 86-07. SUSPENSION OF PERMIT.

A permit issued pursuant to this ordinance may be suspended as the Code Enforcement Officer deems necessary to protect the public health, safety, and welfare of the residents of the Town of East Millinocket. Grounds for suspension of the permit shall include, but not be limited to, malodorous air

contaminants caused by the burning of non-permitted materials in the outdoor wood boiler or by the operation of the outdoor wood boiler that are detectable on the property of neighbors of the person on whose land the boiler is located. A suspended permit may be reinstated once the condition that caused the suspension is remedied and reasonable assurances are given that such condition will not recur. Recurrence of a condition, which has previously resulted in suspension of a permit, shall be considered a violation of this chapter and be subject to the penalties provided in Section 86-09 below.

#### 86-08. APPEALS AND WAIVERS

A. Appeals. An outdoor wood boiler owner may appeal, in writing, the Code Enforcement Officer's denial or suspension of a permit to the East Millinocket

Town Selectmen. The Selectmen will consider such appeals in open session and may include, at its discretion, testimony by the property owner, testimony by the Code Enforcement Officer, witnesses, and members of the general public. Any appeals upheld by the Selectmen must find, at a minimum, that the Code Enforcement Officer substantially deviated from the conditions detailed in this chapter and state specifically what those deviations were as part of its decision. If the decision of the Code Enforcement Officer is upheld,

The suspension of the permit will continue until such time as the boiler is brought into compliance with this chapter or discontinued from use. During the appeal process, however, the outdoor wood boiler shall not be used in order to protect the health, safety, and welfare of the neighborhood.

B. Waivers. The Town Selectmen shall retain the authority to grant waivers under this chapter due to extraordinary and undue hardship, upon written request of an affected property owner to the Selectmen. The Selectmen shall consider the waiver request in open session and may include, at its discretion, testimony of the property owner the Code Enforcement Officer, and members of the general public. Any waiver granted shall not have effect of nullifying the intent and purposes of this chapter and the Selectmen may impose such conditions and requirements as it deems reasonable and prudent. If the Selectmen denies the waiver request, the outdoor wood boiler in question must be brought into full compliance with this chapter or its use be discontinued immediately.

#### 86.09. PENALTIES.

Violations of this chapter shall be deemed a civil infraction and violators may be summoned by the Code Enforcement Officer to Maine District Court or other court of competent jurisdiction. The owner of an offending outdoor wood boiler shall be assessed a penalty of one hundred (\$100.00) and each day the violation continues may be considered as a separate offense. The maximum accumulated penalty for such offenses shall not exceed one thousand (\$1,000.00.) For a third or subsequent violation, the property owner's permit shall be revoked in addition to any monetary penalty. The owner shall not be eligible for another permit. Should the services of the Town Attorney be required, however, the Town



shall also be eligible to receive reasonable legal fees in addition to any penalties imposed under this section.

#### 86.10. DEFINITIONS.

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them hereunder, except where the context clearly indicates a different meaning:

FIREWOOD means trunks and branches of trees and bushes, but does not include leaves, needles, or vines.

OUTDOOR WOOD BOILER means any equipment, device, or apparatus, or any part thereof, that is installed, affixed or situated outdoors, or within an enclosure or building not directly and permanently attached to the residence or principal structure for the purpose of combustion of fuel to produce heat or energy used as a component of a heating system providing heat for any swimming pool, Jacuzzi, or interior space.

SEASONED FIREWOOD means wood of any species that has been sufficiently dried so as to contain 25% or less moisture by weight.

UNTREATED LUMBER means dry wood that has been milled and dried, but has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint, or other substance. It may not contain nails, screws, or other similar attachments that, when burned, could create a threat to public health, safety, or welfare.

#### 86-11. SEVERABILITY.

Should any section, sub-section, paragraph, or other provision of this chapter be held to be invalid by any court of competent jurisdiction, such decision shall not affect the validity of the chapter as a whole, or of any part thereof, other than the part held to be invalid.

#### 86-12. EFFECTIVE DATE.

This ordinance shall be effective upon adoption by the Town of East Millinocket and may be amended in accordance with Town requirements for amending ordinances. May 15, 2007

Given under our hands this 30th day of April, 2007 A.D.

MARK C. SCALLY, CHAIRMAN

GARY A. MACLEOD

RICHARD W. NICHOLSON

A COPY OF AMENDMENTS TO "EAST MILLINOCKET OUTDOOR WOOD BOILERS ORDINANCE" , AS  
CERTIFIED TO ME BY THE MUNICIPAL OFFICERS OF EAST MILLINOCKET ON THE 30TH DAY OF APRIL 2007.

ATTEST: LAURA R. FERGUSON, TOWN CLERK OF EAST MILLINOCKET

## **TOWN OF EAST MILLINOCKET**

### **Administration by the Efficiency Maine Trust**

#### **PROPERTY ASSESSED CLEAN ENERGY (PACE) ORDINANCE.**

##### **PREAMBLE**

WHEREAS, the 124<sup>th</sup> Maine Legislature has enacted Public Law 2009, Chapter 591, "An Act to Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act"; and

WHEREAS, that Act authorizes a municipality that has adopted a Property Assessed Clean Energy ("PACE") Ordinance to establish a PACE program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the City/Town, financed by funds awarded to the Efficiency Maine Trust under the Federal Energy Efficiency and Conservation Block Grant (EECBG) Program and by other funds available for this purpose, and to enter into a contract with the Trust to administer functions of its PACE program; and

WHEREAS, the Municipality wishes to establish a PACE program; and

NOW THEREFORE, the Municipality hereby enacts the following Ordinance:

#### **ARTICLE I - PURPOSE AND ENABLING LEGISLATION**

##### **§ XX-1 Purpose**

By and through this Chapter, the Town of East Millinocket declares as its public purpose the establishment of a municipal program to enable its citizens to participate in a Property Assessed Clean Energy ("PACE") program so that owners of qualifying property can access financing for energy saving improvements to their properties located in the Town of East Millinocket. The Town of East Millinocket declares its purpose and the provisions of this Ordinance to be in conformity with federal and State laws.

##### **§ XX-2 Enabling Legislation**

The Town of East Millinocket enacts this Ordinance pursuant to Public Law 2009, Chapter 591 of the 124<sup>th</sup> Maine State Legislature -- "An Act To Increase the Affordability of Clean Energy for Homeowners and Businesses," also known as "the Property Assessed Clean Energy Act" or "the PACE Act" (codified at 35-A M.R.S.A. § 10151, *et seq.*).

## ARTICLE II - TITLE AND DEFINITIONS

### § XX-3 Title

This Ordinance shall be known and may be cited as “the Town of East Millinocket Property Assessed Clean Energy (PACE) Ordinance” (the “Ordinance”).

### § XX-4 Definitions

Except as specifically defined below, words and phrases used in this Ordinance shall have their customary meanings; as used in this Ordinance, the following words and phrases shall have the meanings indicated:

1. **Energy saving improvement.** “Energy saving improvement” means an improvement to qualifying property that is new and permanently affixed to qualifying property and that:
  - A. Will result in increased energy efficiency and substantially reduced energy use and:
    - (1) Meets or exceeds applicable United States Environmental Protection Agency and United States Department of Energy Energy Star program or similar energy efficiency standards established or approved by the Trust; or
    - (2) Involves air sealing, insulating, and other energy efficiency improvements of residential, commercial or industrial property in a manner approved by the Trust; or
  - B. Involves a renewable energy installation or an electric thermal storage system that meets or exceeds standards established or approved by the trust.
2. **Municipality.** “Municipality” shall mean the Town of East Millinocket.
3. **PACE agreement.** “Pace agreement” means an agreement between the owner of qualifying property and the Trust that authorizes the creation of a PACE mortgage on qualifying property and that is approved in writing by all owners of the qualifying property at the time of the agreement, other than mortgage holders.
4. **PACE assessment.** “PACE assessment” means an assessment made against qualifying property to repay a PACE loan.
5. **PACE district.** “Pace district” means the area within which the Municipality establishes a PACE program hereunder, which is all that area within the Municipality’s boundaries.

6. **PACE loan.** "PACE loan" means a loan, secured by a PACE mortgage, made to the owner(s) of a qualifying property pursuant to a PACE program to fund energy saving improvements.
7. **PACE mortgage.** "PACE mortgage" means a mortgage securing a loan made pursuant to a PACE program to fund energy saving improvements on qualifying property.
8. **PACE program.** "PACE program" means a program established under State statute by the Trust or a municipality under which property owners can finance energy savings improvements on qualifying property.
9. **Qualifying property.** "Qualifying property" means real property located in the PACE district of the Municipality.
10. **Renewable energy installation.** "Renewable energy installation" means a fixture, product, system, device or interacting group of devices installed behind the meter at a qualifying property, or on contiguous property under common ownership, that produces energy or heat from renewable sources, including, but not limited to, photovoltaic systems, solar thermal systems, biomass systems, landfill gas to energy systems, geothermal systems, wind systems, wood pellet systems and any other systems eligible for funding under federal Qualified Energy Conservation Bonds or federal Clean Renewable Energy Bonds.
11. **Trust.** "Trust" means the Efficiency Maine Trust established in 35-A M.R.S.A. § 10103 and/or its agent(s), if any.

### ARTICLE III - PACE PROGRAM

1. **Establishment; funding.** The Municipality hereby establishes a PACE program allowing owners of qualifying property located in the PACE district who so choose to access financing for energy saving improvements to their property through PACE loans administered by the Trust or its agent. PACE loan funds are available from the Trust in municipalities that 1) adopt a PACE Ordinance, 2) adopt and implement a local public outreach and education plan, 3) enter into a PACE administration contract with the Trust to establish the terms and conditions of the Trust's administration of the municipality's PACE program, and 4) agree to assist and cooperate with the Trust in its administration of the municipality's PACE program.
2. **Amendment to PACE program.** In addition, the Municipality may from time to time amend this Ordinance to use any other funding sources made available to it or appropriated by it for the express purpose of its PACE program, and the Municipality shall be responsible for administration of loans made from those other funding sources.



## **ARTICLE IV – CONFORMITY WITH THE REQUIREMENTS OF THE TRUST**

1. **Standards adopted; Rules promulgated; model documents.** If the Trust adopts standards, promulgates rules, or establishes model documents subsequent to the Municipality's adoption of this Ordinance and those standards, rules or model documents substantially conflict with this Ordinance, the Municipality shall take necessary steps to conform this Ordinance and its PACE program to those standards, rules, or model documents.

## **ARTICLE V – PROGRAM ADMINISTRATION; MUNICIPAL LIABILITY**

### **1. Program Administration**

A. **PACE Administration Contract.** Pursuant to 35-A M.R.S.A. §10154(2)(A)(2) and (B), the Municipality will enter into a PACE administration contract with the Trust to administer the functions of the PACE program for the Municipality. The PACE administration contract with the Trust will establish the administration of the PACE program including, without limitation, that:

- i. the Trust will enter into PACE agreements with owners of qualifying property in the Municipality's PACE district;
- ii. the Trust, or its agent, will create and record a Notice of the PACE agreement in the appropriate County Registry of Deeds to create a PACE mortgage;
- iii. the Trust, or its agent, will disburse the PACE loan to the property owner;
- iv. the Trust, or its agent, will send PACE assessment statements with payment deadlines to the property owner;
- v. the Trust, or its agent, will be responsible for collection of the PACE assessments;
- vi. the Trust, or its agent, will record any lien, if needed, due to nonpayment of the assessment;
- vii. the Trust or its agent on behalf of the Municipality, promptly shall record the discharges of PACE mortgages upon full payment of the PACE loan.



**B. Adoption of Education and Outreach Program.** In conjunction with adopting this Ordinance, the Municipality shall adopt and implement an education and outreach program so that citizens of the Municipality are made aware of home energy saving opportunities, including the opportunity to finance energy saving improvements with a PACE loan.

**C. Assistance and Cooperation.** The Municipality will assist and cooperate with the Trust in its administration of the Municipality's PACE program.

**D. Assessments Not a Tax.** PACE assessments do not constitute a tax but may be assessed and collected by the Trust in any manner determined by the Trust and consistent with applicable law.

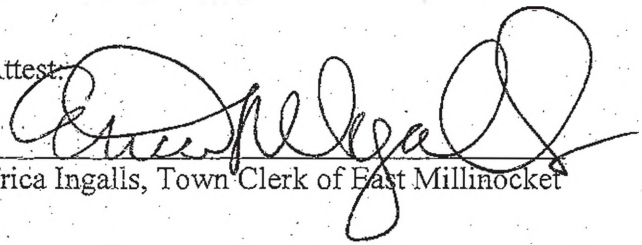
**2. Liability of Municipal Officials; Liability of Municipality**

**A.** Notwithstanding any other provision of law to the contrary, municipal officers and municipal officials, including, without limitation, tax assessors and tax collectors, are not personally liable to the Trust or to any other person for claims, of whatever kind or nature, under or related to a PACE program, including, without limitation, claims for or related to uncollected PACE assessments.

**B.** Other than the fulfillment of its obligations specified in a PACE administration contract with the Trust entered into under Article V, §1(A) above, a municipality has no liability to a property owner for or related to energy savings improvements financed under a PACE program.

A true copy of the warrant,

Attest:

  
Erica Ingalls, Town Clerk of East Millinocket

## PARKING ORDINANCE

### AUTHORITY AND PURPOSE

The East Millinocket Selectmen find that unrestricted parking of motor vehicles on certain portions of public ways in East Millinocket creates a hazard to motorists and pedestrians. Unrestricted parking causes motorists to drive outside the designated travel land and into oncoming traffic. If adopted, the purpose of this ordinance, in accordance with 20-A M.R.S.A. 3009 which is to regulate parking to protect the public health, safety and welfare of the community.

### DEFINITIONS:

Words in this ordinance shall be defined in accordance with 20-A M.R.S.A. 1013 any undefined word shall have its common meaning.

### ENFORCEMENT:

This ordinance shall be enforced by the Town's Police Department and any violation of this ordinance is a civil action punishable by a fine of fifty (\$50.00) dollars. Any person charged with such a violation may waive court action by paying a fee of fifteen (\$15.00) to the Town Clerk within thirty (30) days of this violation. Repeat offenders will be charged double the fine of fifty (\$50.00) for each occurrence.

The East Millinocket Police Department also has the authority to tow a vehicle if the owner has three (3) unpaid parking tickets. The owner shall pay the parking tickets at the Town Office and upon receipt of payment shall be able to retain towed vehicle at owner's expense to towing company.

### SEVERABILITY:

In the event that any portion of this ordinance is declared by the court to be unenforceable. The remaining provisions continue in full force.

### Section 1. UNLAWFUL PARKING

A. No person within the limits of East Millinocket, Maine, shall stop, stand or park any motor vehicle or any other item requiring State of Maine registration except when necessary to avoid any conflict with other traffic or in direction of Police Officers or traffic or other traffic in direction of Police Officers or traffic control devices in any of the following places.

1. On sidewalk, crosswalk, bicycle lane,
2. In front of a public or private driveway, including either side as to obstruct the view;
3. Within the ten (10) feet of railroad tracks;
4. No owner or operator or person in charge of any commercial vehicle which has a carrying capacity of more than the registered weight of the vehicle, including the load, is more than eight (8) feet in width, or which, including load is more than twelve (12) feet, six (6) inches in height, shall be permitted to stand upon any public street in the Town for any longer period than two (2) hours, except when loading and unloading.

5. The Municipal Officers may establish freight loading zones and place signs to maintain appropriate stopping, standing and parking.

6. Authority of the Police Chief: The Police Chief is hereby authorized to regulate parking when he or she deems it necessary for the public safety of the Town. This is to include signs and marking of notification within one hundred (100) feet of any fire station.

7. Exceptions: This ordinance does not apply to motor vehicles parked in prohibited areas for the following reasons:

- a. Town Officials conducting official business
- b. Technical problems or breakdowns
- c. E
- d. Emergency situations
- e. Maintenance, construction, repair or installation of utilities of the public way by any State or Municipal Agency or Utility Company.

Adopted May 1, 1991

## PROPERTY MAINTENANCE ORDINANCE

### SECTION 1. AUTHORITY

This ordinance is enacted pursuant to Maine Revised Statutes Annotated (M.R.S.A.), Title 30-A Section 3001.

### Section 2. Short Title

This ordinance shall be known and cited as the “Property Maintenance Ordinance” of the Town of East Millinocket.

### Section 3. Purpose

The purpose of this ordinance is to set a minimum standard for maintenance of the grounds of property in order to protect public health, public safety, property values, and to prevent nuisance conditions.

### Section 4. Required Maintenance

All grounds or parts thereof shall be maintained to prevent unsafe, unsanitary and/or nuisance conditions (according to the nuisance definition found in M.R.S.A. Title 17, Section 2802 and as shown in the Appendix) and to avoid any adverse effect on the value of adjoining properties.

### Section 5. Grounds Maintenance Standards

The grounds of any property shall be kept in good repair and free of unsafe or unsanitary conditions. Such conditions may include containing: garbage, household trash, rubbish, junk, discarded plumbing, heating supplies, old or scrap copper, brass, rope, rags, batteries, paper trash, rubber, waste and all scrap iron, steel, other scrap ferrous or nonferrous material, debris, scrap lumber, inoperable machinery or parts thereof, glass, unused and inoperable appliances, worn and unused furniture, and more than one unlicensed or uninspected vehicle.

This section shall not be construed to prevent conforming uses allowed by the “Land Use Ordinance of the Town of East Millinocket”.

### Section 6. Maintenance After Casualty

Within a period of 90 days after casualty (see Appendix) damage to property grounds or structures, the owner shall cause or contract (see Appendix) for the repair or restoration of damaged areas and the demolition of any areas not to be repaired and the removal of all debris connected therewith. The CEO may grant an extension under certain hardship conditions (see Section 9).

### Section 7. Responsibilities

Owners, operators, and occupants of properties in violation of this ordinance shall be jointly and severally liable for violations and for corrective and for corrective actions required.

### Section 8. Enforcement and Penalties

This ordinance shall be enforced by the Code Enforcement Officer (CEO), or his or her designee. The CEO shall notify the violator, serving a written notice by certified mail or by hand delivery. Said notice shall explain the nature of the violation and require corrective action within 30 calendar days from the date of the receipt of the notice to correct the violation; 7 days for a health and/or safety violation.

The violator may appeal the CEO's decision to the Town of East Millinocket Selectmen. Appeals must be made within 7 days of notification by the CEO of a violation. In the case of an appeal the 30 days allowed to attain compliance shall start the day after the Selectmen have heard an unsuccessful appeal by the alleged violator.

If a violation is not corrected within the time allowed the Town shall pursue all remedies and relief available by law and/or in equity for land use ordinances, including without limitation the remedies and relief provided in M.R.S.A. Title 30A Section 4452 currently including, without limitation, a penalty of \$100 to \$2,500 per day for a specific violation, injunctive relief and reasonable attorney fees, expert witness fees and costs. The Town shall retain all penalties set forth in this ordinance. The CEO may represent the Town in District Court, pursuant to Rule 80-K. However, should the services of the Town Attorney be required, in litigation in a higher court of law for example, the CEO shall first review the case with the Selectmen.

The CEO may offer one (1) special extension per person/per incident of up to 180 days to violators of this ordinance under certain hardship or extenuating circumstances. If a violation is discovered during winter months (November 1 – April 1) and if winter weather prevents the correction of a violation an extension may be granted. Cases of disability of financial hardship shall also be grounds for the consideration of an extension. Violators requesting an extension for financial hardship shall be required to prove hardship through financial documentation. These extensions for seasonal, disability, or financial hardship shall be at the discretion of the CEO.

#### Section 9. Severability

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

#### Section 10. Conflict With Other Laws

Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the provision imposing the greater restriction shall control. The newest version of this Ordinance shall be the one that is enforced.

#### Section 11. Effective Date

This ordinance shall be effective upon adoption by the Town of East Millinocket and may be amended in accordance with Town requirements for amending ordinances.

ADOPTED: MAY 15, 2007

## APPENDIX A

### DEFINITIONS

Casualty – Any unforeseeable, unintended accident affecting a property.

Cause or contract – For this ordinance, “cause or contract” as it appears in Section 5 includes the initiation of an insurance claim (as opposed to resolution), the contracting of a construction/repair business, or the substantial preparation for self-repair work.

Garbage- The animal, vegetable and any other waste resulting from the handling, preparation, cooking or consumption of food.

Grounds – The part of a property not covered by permanent structures.

Junk – For this ordinance the term “junk” refers to dilapidated, discarded or worn out material(s) or objects.

Nuisance Condition – This term has been defined by M.R.S.A. Title 17 Section 2802. It reads as follows: “The erection, continuance or use of any building or place for the exercise of trade, employment or manufacture which, by noxious exhalations, offensive smells, or other annoyances, become injurious and dangerous to the health, comfort or property of individuals, or of the public; causing or permitting abandoned wells or tin mining shafts to remain unfilled or uncovered to the injury or prejudice of others; causing or suffering any offal, filth or noisome substance to collect, or to remain in any place to the prejudice of others; obstructing or impeding, without legal authority, the passage of any navigable river, harbor or collection of water; corrupting or rendering unwholesome or impure the water of a river, stream, pond or aquifer; unlawfully diverting it from its natural course or state, to the injury or prejudice of others; and the obstructing or encumbering by fences, buildings or otherwise, of highways, private ways, streets, alleys, commons, common landing places or burying grounds are nuisances within the limitations and exceptions mentioned. Any places where one or more old, discarded, worn out or junked motor vehicles as defined in M.R.S.A. Title 29A, Section 101, subsection 42, or parts thereof, are gathered together, kept, deposited or allowed to accumulate, in such manner or in such location or situation, either within or without the limits of any highway, as to be unsightly, detracting from the natural scenery or injurious to the comfort and happiness of individuals and the public, and injurious to property rights, are declared to be public nuisances.”

Occupant – Any person living, sleeping, or having actual possession of a dwelling unit, rooming unit or place of business.

Operator – Any person who has charge, care or control of a dwelling or property, or a part thereof, whether with or without the knowledge and consent of the owner.

Owner – Any person who, alone or jointly or severally with each other, shall have legal or equitable title to any property, with or without accompanying actual possession thereof or shall have charge or control of any dwelling unit as owner or agent of the owner or as fiduciary including but not limited to executor, administrator, trustee, receiver or guardian of the estate or as a mortgagee in possession, regardless of how such possession was obtained.



Property – For this ordinance the term shall be defined as any lot, plot or parcel of land.

Rubbish – Combustible and noncombustible waste materials, except garbage, including but not limited to; paper, rags, cartons, boxes, wood, rubber, tires, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and other similar materials.

Structure – Anything built or constructed and permanently affixed on a property that cannot be considered grounds or landscaping.

Unserviceable – For the purposes of this ordinance the Town will rely on a Maine Supreme Court decision (Town of Pownal v. Emerson, 639 A.2d 619 (Me, 1994); Town of Mt. Desert v. Smith, 2000ME 88, 751 A.2d. 445)

which includes the following: “unserviceable means not ready to use or presently useable” as opposed to “incapable of being serviced.”

## APPENDIX B

### GENERAL

Screening may be accomplished by natural or man-made objects, plantings or properly constructed fences, any of which must completely screen the items from ordinary view from any portion of any public way or abutting property throughout the entire calendar year. All screening must be located outside of the public way right-of-way limits.

Natural or man-made objects may be interpreted to be:

1. Hills, gullies, or embankments. Such man-made objects must be constructed to blend with the landscape with loaming and seeding or other treatment as may be necessary to establish a natural appearance.
2. Buildings or other installations.
3. Combinations of above.

Exceptions:

- a. Tarps, plastic, paper, canvas or other similar type temporary covering material shall not be considered screening for the purposes of this ordinance.

Plantings:

Trees, shrubs, or other vegetation of sufficient height, density and depth of planting or growth to completely screen the junkyard from ordinary view from any highway within the prescribed distance throughout the entire calendar year may be used for screening.

#### Fences:

Fences shall be so located and of sufficient height to completely screen the property, materials or equipment from ordinary view from any public way or abutting property. It must be emphasized that height must be sufficient to accomplish the complete screening from ordinary view. All fences shall be well constructed and maintained. Only sound undamaged material, uniform in appearance, and erected in a workmanlike manner will be acceptable.

#### Suggested Materials:

Posts: Wood-Sound, round or square, preferable cedar, spruce, or fir. Preservative treatment is suggested. 4" x 4" minimum diameter (round).

Metal – Steel pipe or structural section steel either galvanized or base coat painted with rust inhibitive paint.

All posts shall extend a minimum of 40 inches below ground level and to be set plumb. Recommended post spacing 8' to 12'. End and corner posts to be diagonal braced to nearest adjacent post.

#### Stringers:

Minimum 2 x 4 – Spruce or Fir – Sound and free of excessive or weakening knots, and relatively free from warp or wane, preferable treated with weather resistant preservative (paint or stain) after cutting to length. Solidly spike to wood posts or bolted to metal posts. Three stringers for 6 to 8 foot height of fence, 4 stringers for 10 to 12 foot height. Over 12 foot height would require a special design.

Steel pipe or structural section stringers may be used. There should be either galvanized or base coat painted with rust inhibitive paint.

#### Facing Materials:

Facing materials may be wood, composite, sheet metal or plastic. Although new material will not be a requirement, bent, damaged, poor quality, scrap, discarded, mixed or conglomerate materials will not be acceptable.

Suggested materials would be sound, new or used boards; exterior grade hardboard or plywood; corrugated steel, aluminum, or plastic.

It is suggested that all fastenings be galvanized nails, spikes, bolts, clamps, etc., and that all wood materials be treated with an exterior grade finish of stain or paint to preserve and prolong the life of the fence and to present a uniformity of appearance.

Since wind damage is a problem with any fence, bracing may be required and certainly would be essential on any fence over 8 feet in height. In board fence construction, relief of wind pressure may be achieved by placing the boarding alternatively on outside and inside of stringers with the spacing to be such that the edges overlap enough to present a solid appearance and effectively screen the junkyard from ordinary view.

Given under our hands this 30th day of April, 2007 A.D.

MARK C. SCALLY /s/

DAVID W. MACLEOD

LAWRENCE B. MACKENZIE

GARY A. MACLEOD /s/

RICHARD W. NICHOLSON /s/

A copy of an ordinance entitled "East Millinocket Property Maintenance Ordinance",  
as certified to me by the municipal officers of East Millinocket on the 30th day of April 2007.

Attest:

Laura R. Ferguson, Town Clerk of East Millinocket /s/

PUBLIC NUISANCE ORDINANCE

Code enforcement officer recommended to use the State law for public nuisance.

H.P. 1002-L.D. 1367                      SEC. 1. 29-A M.R.S.A. ss 1106-A

Passed by Selectmen on 03/29/2004

## RUBBISH BURNING ORDINANCE

### 1963 TOWN MEETING ARTICLE - 34

It shall be unlawful for anyone to burn rubbish, leaves, or debris of any type within the limits of the populated portions of the build-up area of the Town of East Millinocket without first obtaining a permit from the Fire Department of East Millinocket. The owner of the premises upon which any illegal burning is created shall be presumed to have caused the burning.

Whoever shall violate this ordinance shall be subject to a fine in the sum of ten (\$10.00) dollars which shall be enforced by the Maine District Court upon complaint issued for such violation. The funds derived will be reimbursed to the Town of East Millinocket.

Adopted March 4, 1963

## STREET VENDOR ORDINANCE

### 1936 TOWN MEETING ARTICLE - 2

To see what action the town will take relative to the adoption of the following eight sections as a Town By-Law.

SECTION 1. No person shall expose for sale or sell upon the public streets of the Town of East Millinocket, or go from place to place in the Town, exposing for sale and selling goods, wares or merchandise at retail, until he/she has procured a license to do so hereafter.

SECTION 2. The Selectmen may grant a license to permit selling upon the public streets of the Town, or go from place to place in the Town exposing for sale, and selling goods, wares or merchandise at retail.

SECTION 3. Every person to whom a license is issued under this bylaw, shall make out a written application, signed by him/her stating the name and address of the applicant and the nature and kind of goods, wares and merchandise which he/she intends to expose for sale or sell at retail; and the license provided for when issued, shall apply only to goods, wares or merchandise described in the application and no other property of any nature shall be exposed for sale or sold under this license.

SECTION 4. The Selectmen shall cause to be inserted in every license issued under bylaw, the name and address of the person applying for the same, and the amount paid as a license fee therefore, together with a description of the goods, wares or merchandise which may be sold or offered for sale under the license.

SECTION 5. Each applicant granted a license hereunder, shall pay to the Selectmen for the Town a license fee of fifteen dollars(\$15.00), and ever license granted shall expire on the fifteenth day of the following March. It is further provided that a license fee for a fractional part of a year shall be as follows: A license issued on or after July 15th shall be ten dollars(\$10.00). A license issued on or after November 15th shall be five dollars (\$5.00). The minimum fee in all cases shall be five dollars(\$5.00).

SECTION 6. Every person, to whom a license is issued, whenever demanded by the selectmen, a Constable or Police Officer of the Town, shall exhibit the license to the person demanding it. If he/she neglects or refuses to do so, they shall be liable to the same as provided in Section 7 of this bylaw, and his/her license shall be revoked.

SECTION 7. Who ever shall expose for sale or sell upon the public streets of the Town or go from place to place in the Town exposing for sale or selling goods, wares or merchandise at retail in violation of this bylaw shall be punished by a fine of not more than twenty-five dollars (\$25.00) to be recovered on complaint to the use of the Town.



SECTION 8. The provisions of this bylaw shall not apply to commercial agents of other persons selling by samples, lists, catalogues or otherwise goods, wares or merchandise for future delivery, persons selling fish, or persons selling farm, dairy, or orchard products of their own production and persons selling bark, wood or forest products and persons selling newspapers or religious literature.

ADOPTED APRIL 18, 1936