

2015

Town of Eddington Maine Ordinances

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TOWN OF EDDINGTON

911 ADDRESSING ORDINANCE

Adopted: March 11, 1997 Town Meeting

SECTION 1. PURPOSE

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

SECTION 2. AUTHORITY

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

SECTION 3. ADMINISTRATION

This ordinance shall be administered by the Town Manager who is authorized to and shall assign road names and numbers to all properties, both on existing and proposed roads, in accordance with the criteria in Sections 4 and 5. The Town Manager shall also be responsible for maintaining the following official records of this ordinance.

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

SECTION 4. NAMING SYSTEM

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

The following criteria shall govern the naming system:

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

SECTION 5. NUMBERING SYSTEM

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

The following criteria shall govern the numbering system:

- a. All number origins shall begin from the designated center of Eddington or that end of the road closest to the designated center. (The numbering origin does not have to be the town center but could be a border with another community. See step 2a on page 23 for suggestions.) For dead end roads, numbering shall originate at the intersection of the adjacent road and terminate at the dead end.
- b. The number assigned to each structure shall be that of the numbered interval falling closest to the front door. If the front door cannot be seen from the main road, the number shall be that of the interval falling closest to the driveway of said structure.
- c. Every structure with more than one principle use or occupancy shall have a separate have a separate number for each use or occupancy, (i.e. duplexes will have two separate numbers; apartments will have one road number with an apartment number, such as 235 Maple Street, Apt. 2).

SECTION 6. COMPLIANCE

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

- a. **Number on the Structure of Residence.** Where the residence or structure is within 50 (fifty) feet of the edge of the road right-of-way, the assigned number shall be displayed on the front of the residence or structure near the front door or entry.
- b. **Number at the Street Line.** Where the residence or structure is over 50 (fifty) feet from the edge of the road right-of-way, the assigned number shall be displayed on a post, fence, wall, the mail box, or on some structure at the property line next to the walk or access drive to the residence or structure.
- c. **Size and Color of Number.** Numbers shall be displayed in a color and size approved for use by the Town Manager and shall be located to be visible from the road. **Color=Black** **Size=4"**
- d. Every person whose duty is to display the assigned number shall remove any different number that might be mistaken for, or confused with, the number assigned in conformance with this ordinance.
- e. **Interior Location.** All residents and other occupants are requested to post the assigned number and road name next to their telephone for emergency reference.

SECTION 7. NEW CONSTRUCTION AND SUBDIVISIONS

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

- a. **New Construction.** Whenever any residence or other structure is constructed or developed, it shall be the duty of the new owner to obtain an assigned number from the Town Manager. This shall be done at the time of the issuance of the building permit.
- b. **New Subdivisions.** Any prospective sub-divider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. Approval by the Planning Board, after consultation with the Town Manager, shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

SECTION 8. EFFECTIVE DATE

This ordinance shall become effective as of 03-11-1997. It shall be the duty of the Town Manager to notify by mail each property owner and the Post Office of a new address at least 30 (thirty) days before the effective date of its use. It shall be the duty of each property owner to comply with this ordinance, including the posting of new property numbers, with 30(thirty) days following notification. On new structures, numbering will be installed before final inspection or when the structure is first used or occupied, whichever comes first.

SECTION 9. ENFORCEMENT

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find, "or is notified" that any provision of this Ordinance is being violated, the Code Enforcement Officer shall notify in writing by certified mail, with return receipt requested from the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

When the above action does not result in the abatement and correction of the violation or nuisance condition, within 45 days, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceeding, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Municipality.

Any person who continues to violate any provision of the Ordinance after receiving notice of such violation shall be guilty of a misdemeanor subject to a fine of up to \$100.00 for each violation. Each day such a violation is continued is a separate offense.

TOWN OF EDDINGTON

CATV ORDINANCE

Enacted: December 13, 1983

TITLE I: PURPOSE

An Ordinance providing for Town regulation and use of the community antenna television system including its construction, operation and maintenance in, along, upon, across, above, over and under the streets, alleys, public ways, and public places not laid out or dedicated, and all extensions thereof and additions thereto in the Town of Eddington, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Eddington of the community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operation.

TITLE II: DEFINITIONS

- a) **“C.A.T.V.”** shall mean any community antenna television system or facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals by wire or cable to subscribing members of the public who pay for such services, but such term shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.
- b) **“Cable Television Co.”** shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of Eddington, sometimes hereinafter referred to as the “company”.
- c) **“Town”** shall mean the Town of Eddington, Maine, organized and existing under the laws in the State of Maine and the area within its territorial limits.

TITLE III: FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this ordinance and unless said franchise is in full force and effect.

TITLE IV: FRANCHISE CONTRACT

- a) The Eddington Board of Selectmen may contract on such terms, conditions and fees as are in the best interests of the municipality and its residents with one or more Cable Television Companies for the operation of a CATV system throughout the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years.
- b) Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$25.00 to defray the cost of public notice, and advertising expenses relating to such application. The applications shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to, a detailed description of the service area to be served, with the areas shown on a map of the Town, a projected time schedule for each service area, and a general description of the applicant's proposed operations, a schedule of proposed charges, a statement detailing its business or corporate organization with a financial statement for the two previous fiscal years, an estimated fifteen (15) year financial projection of its proposed system and its proposed annual town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both CATV and Microwave service including that of its officers, management and staff to be associated with the proposed operation.
- c) Said Franchise Contract may be revoked by the Eddington Board of Selectmen for good and sufficient cause after due notice to the company and a public hearing thereon; with the right to appeal to the Penobscot County Superior Court under Rule 80-B of the Maine Rules for Civil Procedure.

TITLE V: PUBLIC HEARING

Before authorizing the issuance of any such franchise contract or contracts, the Eddington Board of Selectmen shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a CATV system throughout the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

TITLE VI: PERFORMANCE BOND AND INSURANCE COVERAGE

The (CATV Co.) shall provide sufficient insurance to indemnify and hold harmless the Town of Eddington, its agents and its employees from and against all claims, damages, losses, and expenses including attorney's fees arising out of or resulting from the performance of the work, maintenance of the system, and damages caused by components or portions thereof, provided that any such claims, damage, loss or expenses is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom, and is caused in whole or in part by any negligent or willful act or omission of the (CATV Co.) and anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable.

Upon the execution of any such franchise the Cable Television Company shall file a Surety Company performance bond in the amount of \$100,000. conditional upon the faithful performance of said contract and full compliance with any laws, ordinances or regulations governing said franchise.

TOWN OF EDDINGTON
CEMETERY BOARD ORDINANCE

Enacted March 20, 1979
Revised: March 1995
Revised: June 2, 2003

SECTION 101. ESTABLISHMENT There is hereby created a Board of Cemetery Trustees, which shall consist of three members appointed by the Board of Selectmen for three year terms, except that the three members first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter.

SECTION 101.1 Should a vacancy occur in said Board by death, resignation or otherwise, the same shall be filled by appointment by the Board of Selectmen.

SECTION 101.2 Not more than one member of the Board of Trustees may be a member of the Board of Selectmen.

SECTION 102. CHAIRMAN. The Board shall annually elect one of its members to be and act as Chairman thereof.

SECTION 103. JURISDICTION, POWERS AND DUTIES OF THE BOARD.

The Board of Cemetery Trustees Shall:

SECTION 103.1. Have full jurisdiction over all cemeteries within the Town of Eddington that are the property of said Town.

SECTION 103.2. Have the necessary powers to create and administer Rules and Regulations for the operations and use of all Town owned cemeteries.

SECTION 103.3. Have general supervision over all public cemeteries in the Town. All work done therein shall be subject to their approval.

SECTION 103.4. Have the necessary powers to lay out and establish and cause to be graded, the lots and avenues in said cemeteries agreeable to plans thereof, and to change the line of grading of lots and avenues so as to conform to said plans, when in their judgment, the general conditions of the cemeteries will be benefited thereby.

SECTION 103.5. Provide a plan of the various cemeteries showing the locations of roads and avenues and the location, identifying number and owner of each lot in each cemetery. One copy of such chart shall be in the custody of the Cemetery Board and one kept in the Town vault under the care of the Town Clerk.

SECTION 104.1. Annually notify the Town Clerk of owners of all lots in their respective cemeteries of the displacement of any stones or monuments on lots of such owners, and the Clerk or Secretary shall request such owners to reset, right and place in position such stones and monuments within such time as said Board shall designate unless the cemetery established is of a perpetual or endowed care nature.

SECTION 104.2. Annually, right and place in position all stones and monuments on lots of owners unknown or who have not been notified.

SECTION 105. FINANCIAL PROVISIONS:

SECTION 105.1. The Town Treasurer shall make the sale of lots in the public cemeteries, at the price established by the Board of Trustees, and when paid for, give to the purchaser a good sufficient deed for the same.

SECTION 105.2. All monies received from such sale shall be paid directly into a Cemetery Continuing Account for general cemetery maintenance, but no deed shall be given and no lot occupied until paid for.

SECTION 105.3. Interest and other earnings of money deposited with the Town Treasurer as a Cemetery Trust Fund to provide perpetual care for certain designated lots shall be used for such purposes only, under the direction of the Board of Trustees, and a careful and accurate record kept of the amount, earnings and disbursements of earnings of each individual sum so deposited, and a detailed report of these earnings and disbursements submitted to the Town Manager each year as part of the annual report of the Board.

SECTION 105.4. The fee for perpetual care of a lot in Eddington Cemeteries shall be as follows:

	<u>LOT</u>	<u>PERPETUAL CARE</u>	<u>TOTAL</u>
Single	\$150.00	\$100.00	\$250.00
Double	250.00	150.00	400.00
Quadruple	500.00	200.00	700.00

(after first 4 lot plot is purchased, additional lots will be sold at 2 lot plot prices.
Four lots \$700, 6 lots \$1,100, 8 lots \$1,500, etc.)

NON-RESIDENT

Single	\$400.00	\$100.00	\$500.00
Double	650.00	150.00	800.00
Quadruple	1200.00	200.00	1400.00

(after first 4 lot plot is purchased, additional lots will be sold at 2 lot plot prices.
Four lots \$1,400 6 lots \$2,200.00, 8 lots \$3,000.00, etc.)

SECTION 106. BUDGET ESTIMATE. Each year the Board of Trustees shall file with the Town Manager their budget estimate for the ensuing year, setting forth the amount required to operate the cemeteries for the ensuing year, and the details thereof.

INTERMENTS

	<u>Week Days</u>	<u>Saturday, Sundays & Holidays</u>
<u>Burials:</u>	\$ 450.00	\$ 550.00
<u>Cremate:</u>	100.00	150.00
<u>Disinterment:</u>	Minimum Charge \$450.00	

Charges for opening graves to permit removal will be made on an individual basis in accordance with the difficulty of the work. Decisions of Cemetery Board are final and all payments are due in advance of disinterment.

RULES & REGULATIONS

OF THE

EDDINGTON MUNICIPAL CEMETERIES

EDDINGTON, MAINE

REVISED AUGUST 2001
REVISED JUNE 2003

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FORWARD

It is the goal of the Town to make the Eddington Municipal Cemeteries a beautiful resting place for the dead where a sense of repose will be obtained by dignified landscapes and well-maintained lawns. To secure this effect, the Town has spent and will continue to spend considerable sums of money and preserving these effects will require the cooperation of every lot owner. It is to this end that these rules and regulations have been made.

PURCHASE OF LOTS/OWNERSHIP AND TITLE

Persons wanting to purchase a lot are referred to the Town Office where there are plans showing plots available in each of the Town's cemeteries and prices for same. All lots purchased will include perpetual care. Upon selecting lot(s) the Town will give you a copy of all current rules and regulations and will issue a Cemetery Deed under its seal. The deed will be recorded in the records of the Town of Eddington as proof of lot ownership.

The term "Lot Owner" or "Ownership" shall be construed to mean the rights to use a lot or part of a lot, as purchased from the Town for a consideration for burial purposes only and under the rules and regulations as prescribed by the Cemetery Board.

The title to a cemetery lot invests in the owner the right to use such lot for burial purposes only, for themselves, their heirs or for such persons as they choose to admit, provided such admission is free of charge and without compensation and in accordance with the Cemetery Rules and Regulations.

Once lots are chosen and paid for, all arrangements for burial will be made by the funeral directors the owner has chosen.

FEES, CHARGES AND PAYMENTS

The payment of all fees and charges shall be made to the Cemetery Board and receipts will be issued for all amounts paid.

The following schedule of fees and charges is in effect and applicable to all portions of the Eddington Municipal Cemeteries. These fees and charges are subject to change without notice at such time as the Town may deem necessary. No lot is to be sold without perpetual care.

STANDARD LOT PRICES:

	<u>LOT</u>	<u>PERPETUAL CARE</u>	<u>TOTAL</u>
Single	\$150.00	\$100.00	\$250.00
Double	250.00	150.00	400.00
Quadruple	450.00	250.00	700.00

(after first 4 lot plot is purchased, additional lots will be sold at double lot plot prices.
Four lots \$700, 6 lots \$1,100, 8 lots \$1,500, etc.)

NON-RESIDENTS

Single	\$400.00	\$100.00	\$500.00
Double	650.00	150.00	800.00
Quadruple	1150.00	250.00	1400.00

(after first 4 lot plot is purchased, additional lots will be sold at double lot plot prices.
Four lots \$1,400, 6 lots \$2,200, 8 lots \$3,000, etc.)

BURIAL CHARGES:

Week Days

Saturday, Sunday & Holidays

\$500.00

\$600.00

CREMATE:

\$100.00

\$150.00

DISINTERMENT: Minimum Charge

\$500.00

All fees are subject to change.

Charges for opening graves to permit removal will be made on an individual basis in accordance with the difficulty of the work. Decisions of Cemetery Board are final and all payments are due in advance of disinterment.

PERPETUAL CARE OF LOTS

Owners of lots or other interested persons may secure perpetual care of lots in the older portions of the cemeteries by payment to the Town of the perpetual care charge at the rates specified herein.

The term "Perpetual Care" means the obligation which the Town assumes for furnishing such care as mowing grass, raking and cleaning lots. It is understood that such expenditures shall be made at the discretion and under the direction of the Cemetery Board.

The Town will use these only for perpetual care of lots.

PRIVILEGES AND RESTRICTIONS

No mounds shall be raised upon any grave above the general level of the lot. Mounds are difficult to maintain, as the sod grows in an unnatural position and is easily injured by heat, drought and frost. The Town reserves the right at any time to remove unsightly mounds and to resod the grave at the general level of the lot.

All general maintenance and all work on lots paid by perpetual care payments will be done by the Town, but it is desired that each lot owner feels free to consult with the Cemetery Board at all times. Their advice and assistance will be cheerfully given (without charge) and may be of much value to those contemplating the purchase of monumental work or of making lot improvements.

The Town reserves the right for its workmen and those persons necessary to the performance of normal operations to enter upon or cross over any lot in the cemeteries in the performance of such duties.

The Town or its employees assume no liability for damage, or actual or mental anguish, in the performance of normal operations or loss by vandalism or other acts beyond reasonable control.

RULES FOR VISITING

The cemeteries will be open to visitors at all times between sunrise and sunset. Permission to enter the cemeteries at any other time must be obtained from the Cemetery Board. Any person found on the grounds after dark will be considered a trespasser.

People under the age of eighteen must be accompanied by a parent or guardian. Exceptions may be made only by applying to the Cemetery Board.

Persons or picnic parties with refreshments will not be admitted. Dogs will not be allowed in the cemeteries.

Firearms will not be allowed in the cemeteries except for military funerals and at official celebrations such as Memorial Day, Veterans Day, etc.

Snowmobiles, motorbikes, bicycles and all off-highway vehicles will not be allowed in the cemeteries. Visitors are required to use the walks and drives at the cemeteries. The picking of any flowers (either wild or cultivated) or injury to any shrub, tree or plant or the marring of any monument, stone or structure in any Eddington Cemetery is forbidden.

All persons are reminded that the grounds are sacredly devoted to the burial of the dead and that the provisions and penalties of the law as provided by statute, will be strictly enforced in all cases of wanton injury, disturbance and disregard of the rules.

INTERMENTS

All interments in lots shall be restricted to members of the family. Permission in writing from a lot owner must accompany all requests for permits to bury persons not members of the immediate family. Such permission shall not be for remuneration.

All graves shall be opened and closed by the Town under the direction of the Cemetery Board. A charge for opening and closing a grave and the sodding and seeding of such grave will be made as provided herein.

The lot owner or funeral director shall designate the location of the grave on the lot to the Cemetery Board and any change of location made after the opening of the grave has begun shall be at the expense of the lot owner. The Cemetery Board shall be given twenty-four hours notice for the opening and preparation of the grave prior to interment. An additional charge as provided herein may be made for a service on Saturday, Sunday or legal holiday.

No interment of any body other than that of a human being will be permitted.

The interment of two bodies in one single grave space will not be allowed, except in case of mother and infant, twin children or two children buried at the same time, or two cremated remains.

In all interments the casket shall be enclosed in a permanent outside container. The following are considered permanent outside container: concrete boxes, concrete, copper or steel burial vaults, and sectional concrete crypts.

As soon as flowers, wreathes, emblems, etc., used at funerals or placed on graves at other times, become unsightly and faded, they will be removed and no responsibility for their protection or maintenance is assumed.

REMOVALS

Removals of bodies from graves in the cemeteries will only be made by the town in accordance with the requirements of the Statutes of the State. Disinterment fees are the same as burial fees.

Owners or their heirs desiring graves opened shall secure the necessary disinterment permit from the Town Clerk and deliver the same to the cemetery Board. All removals will be made by the Town under the supervision of a licensed funeral director. Any markers or monuments designating the location of an interment shall be removed at the time a disinterment is made.

STONE AND MONUMENTAL WORK

All stone and monumental work shall be subject to the following regulations and requirements:

All memorial foundations shall be placed on solid ground not included in actual grave space except where grave liner is of permanent type and of sufficient strength to support weight of foundation and memorial.

The setting of monuments, stones and markers and the transportation of all tolls, material, etc., within the cemetery grounds shall be subject to the supervision and control of the Cemetery Board. Heavily loaded vehicles will not be permitted within the cemeteries when, in the opinion of the Cemetery Board, such vehicles might cause injury to the driveways.

Except when special permission is obtained, all work as outlined above shall be performed during daylight hours Monday through Friday.

Care of markers will be the responsibility of the lot owner unless under perpetual care. Any leveling or raising of markers will be done by the Town upon written request of the owner to the Cemetery Board. Work will be done with due diligence and care. However, the Town assumes no liability for damages or injury to markers while being raised or leveled.

FLUSH MARKERS: All markers shall be set so that the top is flush with the ground.

TREES, SHRUBS AND FLOWERS

All general maintenance in the cemeteries will normally be done by the Town but lot owners may feel free at any time to consult the Cemetery Board regarding matters pertaining to permissible plantings or the general care and upkeep of lots.

No person will be permitted to trim, prune or remove branches from any tree or ornamental shrub in the cemeteries except of his own lot. All work of pruning or trimming trees and shrubs shall be done by the Cemetery Board or under their direction. Upon request, the Cemetery Board will do any pruning needed without charge.

Permission to plant trees or shrubs on lots shall in all cases be obtained from the Cemetery Board and the Town reserves the right to remove any tree, shrub or vine, or any part thereof which may have become unsightly, dangerous or not in keeping with the landscape design. Many plants, especially vines, interfere with the proper care of the lots and graves and injure the grass. Such plants will be removed when found interfering with adjacent lots. All flowerbeds will be cleaned of tender plants after the first frost in the fall. All grass lawn shall be maintained in all cemeteries. No marble chips, bark, gravel or similar material shall be used on any lot. Artificial floral arrangements are allowed only until they become unsightly and then may be removed at the discretion of the Cemetery Board.

TOWN OF EDDINGTON

LICENSING AND CONTROL OF DOGS ORDINANCE

Accepted March 25, 1985

Revised March 19, 2001

SECTION 1. DEFINITIONS. As used in this ordinance, unless the context otherwise indicates.

- (a) **“Dog”** shall be intended to mean both male and female.
- (b) **“Owner”** shall be intended to mean any person, firm, partnership, association of corporation owning, keeping or harboring a dog or other animal.
- (c) **“At Large”** shall mean off the premises of the owner and not under the control of any person whose personal presence and attention would reasonably control the conduct of the animal.
- (d) **“Animal Control Officer”** means the person appointed by the Board of Selectmen in accordance with Title 7, Chapter 725 of the Maine Revised Statutes.
- (e) **“Keeper”** means a person in possession or control of a dog or other animal.

SECTION 2. LICENSE REQUIRED. Each owner or keeper of a dog at the age of six (6) months or older, except dogs kept under a kennel license shall, on or before January 1st annually, or at such time as such dog becomes six (6) months old, cause such dog to be licensed in accordance with Title 7, Chapter 725 of the Maine Revised Statutes.

SECTION 2.1 AGENT FOR THE TOWN. The Eddington Board of Selectmen shall appoint one or more Animal Control Officers in accordance with Title 7, Chapter 721 of the Maine Revised Statutes Annotated as amended. Said Animal Control Officers shall hereinafter be referred to as agents of the Town and have all the powers provided under this Ordinance and the laws of the State of Maine.

SECTION 3. TOWN CLERK TO KEEP RECORDS. The Town Clerk shall keep a record of all dog licenses issued by his/her office.

SECTION 4. RUNNING AT LARGE. It shall be unlawful for the owner of any dog, licensed or unlicensed, to permit such dog to run at large, except as permitted under Title 7, Chapter 719 of the Maine Revised Statutes Annotated, as amended.

SECTION 5. BITCH IN HEAT. The owner of any bitch in heat shall keep the same confined or on a leash at all times and shall not permit such dog to be at large within the Town or on any premises other than those of the owner. Every bitch found running at large in violation hereof, is hereby declared to be a public nuisance and shall be impounded and the owner, keeper or person harboring such bitch shall be deemed guilty of a misdemeanor.

SECTION 6. IMPOUNDMENT FEES. Unlicensed dogs or dogs found running at large in the Town shall be taken by an agent of the Town and impounded in one of the shelters designated by the Town and kept for a period not less than eight (8) days, and after a reasonable effort to locate the owner thereof, has been made, such animal shall be disposed of by such agent in such manner as such agent may determine is required. Any dog impounded under the authority of this Ordinance at the designated shelter, may be reclaimed by the owner thereof, or his agent, upon the payment of impoundment and board fees for each day or portion thereof, that the dog has been kept at said shelter. Owners will also be responsible for any additional costs incurred by the animal at the Shelter prior to reclamation. Fees must be paid and a receipt of same presented to the Shelter prior to the release of an animal. All fees to be deposited in the separate account as required by MRSA 7 Section 3945. (Future fees may be adjusted by the Board of Selectmen to adhere to the Shelter's fees.) Impoundment Fees: \$30.00 for each offense paid to the Town plus cost for room and board, quarantine, veterinary care and shots paid to the shelter.

SECTION 7. NUISANCE. Any dog kept within the Town of Eddington may be declared to be a nuisance upon finding of evidence that the dog is a dangerous animal because such dog has bitten a human being. Upon finding evidence that a human being was bitten by a dog, the Animal Control Officer or Law Enforcement may proceed with an action against the owner in accordance with Title 7 of Maine Revised Statutes Annotated Chapter 709, as amended.

Further, any dog kept within the Town of Eddington may be declared to be a nuisance upon the finding by the Animal Control Officer or Law Enforcement that the owner or occupant of a property within one thousand feet (1,000) radius of the property owned or occupied by the owner of the dog has been annoyed by the noise of a dog which the owner has failed to restrain from being noisy. Upon finding such evidence, the Animal Control Officer or Law Enforcement shall give the owner of the dog a written warning the first time he receives a complaint from the owner or occupant of property within the said one thousand feet (1, 000) radius. If the owner of the dog fails to comply with this section after receiving the written warning, the Animal Control Officer or Law Enforcement may proceed with an action against the owner of the dog for violating this Ordinance.

A dog owner shall not be penalized for more than one (1) violation of this section during any consecutive twenty-four (24) hour time period; however, no further written warning need be given after the first written warning is given.

SECTION 8. DISPOSITION OF DOGS WHICH HAVE BITTEN PERSONS. It shall be unlawful for the owner or persons keeping or harboring any dog when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin, to sell or give away such dog or to permit or allow such dog to be taken beyond the limits of the Town, except under the care of a licensed veterinarian. It shall be the duty of such owner or keeper upon receiving notice of the character aforesaid, to immediately place such dog under confinement for a period of at least ten (10) days, or to deliver such dog under confinement to Law Enforcement. Owner/Keeper is responsible for any cost to the animal. Health Officer shall be notified immediately by the person in charge of the death of any dog while under confinement. The Health Officer shall investigate all dog bites referred to him/her by Law Enforcement.

Any dog which shall have been bitten by another dog having or suspected of having rabies shall be immediately impounded for observation. It shall be unlawful for the owner or person keeping or harboring any dog when notified that such dog has bitten any person or has so injured any person as to cause abrasion of the skin to destroy such animal without permission from the Town's Health Officer.

The Public Health Officer shall direct the disposition of any animal found to be infected with rabies. No person shall fail or refuse to surrender any animal for quarantine or destruction as required herein when demand is made therefore by the Health Officer.

SECTION 9. WAIVER COURT HEARING FOR VIOLATION. Any person accused of keeping a dog in violation of this ordinance or any part hereof may voluntarily waive his right to appeal and defend before the District Court the charge made against him for violation of Section 5 & 7 by paying the Town of Eddington the sum of \$35.00 within ten (10) days of the time such alleged offense was committed.

TOWN OF EDDINGTON

EDDINGTON FIRE DEPARTMENT ORDINANCE

Enacted: March 10, 1997

Be it ordained by the citizens of the Town of Eddington, Maine that a department to be hereafter known as the Eddington Fire Department, the object of which shall be the prevention of fire and the protection of life and property within the limits of the Town of Eddington, Maine and such adjacent areas as emergency situations may require, is hereby created as follows:

OFFICIERS

1. The Department shall consist of a Chief, one Deputy Chief and other officers as the Chief and Board of Selectmen may deem necessary for the effective operations of the Department.
2. The Chief shall be appointed by the Board of Selectmen for an indefinite period of time, and his tenure of office shall depend upon his good conduct and efficiency. The Chief shall be technically qualified by training and experience and shall have ability to command men and hold their respect and confidence. He shall be removed only for just cause and after a public hearing before the Board of Selectmen.
3. The Chief shall be held accountable to the Board of Selectmen and Town Manager, and shall make written and verbal reports thereto as the Board of Selectmen and Town Manager may require. All other Department and Company officers shall be accountable to the Chief only.
4. The Deputy Chief and all other Department and Company officers shall be appointed by the Chief. Such officers shall be accountable only to the Chief, and subject to removal by him. Any Department Officer so removed may, if he desires, appeal directly in writing to the Board of Selectmen and their decision shall be final.

DUTIES OF THE CHIEF

1. The Chief shall formulate a set of rules and regulations to govern the Department, and shall be responsible to the Board of Selectmen for the personnel, morale and general efficiency of the Department.

2. The Chief shall determine the number and kind of companies of which the Department is to be composed and shall determine the response of such companies to alarms.
3. The Chief shall, at least once a month, conduct suitable drills or instruction in the operation and handling of equipment, first aid, rescue work, salvage, a study of the buildings in the town of Eddington, fire prevention, water supplies, and all other matters generally considered essential to good firemanship and safety of life and property from fire.
4. The Chief is hereby required to assist the proper authorities in suppressing the crime of arson by investigation or causing to be investigated the cause, origin, and circumstances of all fires.
5. The Chief is hereby empowered with owners consent to enter any and all buildings and premises at any reasonable hour for the purpose of making inspections and to serve written notice upon the owner or occupant to abate, within a reasonable time, such time to be specified in the notice, any and all fire hazards that may be found.
6. Any person served with a notice to abate any fire hazard or hazards, shall comply therewith and promptly notify the Chief.
7. The Chief shall see that complete records are kept of all fires, inspections, apparatus and minor equipment, personnel and other information about the work of the Department.
8. The Chief shall report monthly to the Board of Selectmen the condition of the apparatus and equipment; the number of fires during the month, their location and cause, and the date of same and loss occasioned thereby; the number and purpose of all other runs made; and the number of members responding to each fire or other run, and changes in membership.
9. The Chief shall make a complete annual report to the Board of Selectmen within one month after the close of the municipal year. Such report to include the information specified in Article 7, together with comparative data for previous years and recommendations for improving the effectiveness of the Department.

MEMBERSHIP

1. The membership of the Department shall consist of such persons as may be appointed by the Chief.

EQUIPMENT

1. The Department shall be equipped with such apparatus and other equipment as may be required from time to time to maintain its efficiency and property protect life and property from fire.
2. Recommendations of apparatus and equipment needed shall be made by the Chief, and after approval by the Board of Selectmen shall be purchased in such manner as may be designated by the Board of Selectmen.
3. All equipment of the Department shall be safely and conveniently housed in such places as may be designated by the Board of Selectmen upon recommendation of the Chief. Such places shall be heated during the winter months.
4. Suitable arrangement or equipment shall be provided for the citizens to turn in an alarm, and for notifying all members of the Department so that they may promptly respond.
5. No person shall use any fire apparatus or equipment for any private purpose, nor shall any person willfully and without proper authority take away or conceal any article used in any way by the Department.
6. No person shall enter any place where fire apparatus is housed or handle any apparatus or equipment belonging to the Department unless accompanied by or having the special permission of, an officer or authorized member of the Department.
7. The Town of Eddington is hereby authorized to enter into agreements with nearby incorporated communities or governing bodies of other organizations to provide the members of such communities or organizations with fire protection or to establish a mutual aid system.
8. No apparatus shall be hired out or permitted to leave the Town of Eddington except in response to a call for aid at a fire in a neighboring community without the consent of the officer in charge of the Department. The officer in charge of the Department shall have power to assign equipment for response to calls for outside aid in accordance with Article 7, and in other cases only when the absence of such equipment will not jeopardize protection in this Town of Eddington.

GENERAL

1. Each member of the Department shall be issued a badge designating his rank.
2. Each member of the Department driving a car shall be issued a suitable insignia to be attached to the car.
3. No person shall drive any vehicle over a fire hose except upon specific orders from the Chief or other officer in charge where the hose is used.
4. No person shall park any vehicle or otherwise cause any obstruction to be placed within two hundred (200) feet of the entrance to any fire station or other place where fire apparatus is stored, or within ten (10) feet of any hydrant, cistern, or water hold designated for fire protection.
5. No unauthorized person with any vehicle shall follow within five hundred (500) feet of any apparatus belonging to the Department, not park any vehicle within three hundred (300) feet of a fire.

ENFORCEMENT

1. Any person violating the provisions of Section II, (Duties of the Chief) Article 6: Section IV, (Equipment) Articles 5 and 6; and Section V, (General) Articles 4, 5, and 6 shall, upon conviction in a District Court of Penobscot County, or before a Justice of the Peace, pay a fine of not less than ten (10) dollars or more than one hundred (100) dollars for each offense except that in the case of Section V, (General) Articles 4 and 6, the person shall, upon conviction thereof pay a fine of not less than ten (10) dollars nor more than one hundred (100) dollars, or be imprisoned for not more than ninety (90) days or by both.
2. It is hereby made the special duty of the Chief of Police and/or other peace officers who may be on duty and available for fire duty, to respond to all fire alarms and assist the Department in the protection of life and property, regulating traffic; maintaining order, and in enforcing observance of all sections of this ordinance.
3. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.

FLOODPLAIN MANAGEMENT ORDINANCE

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ARTICLE I - PURPOSE AND ESTABLISHMENT

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

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

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

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

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

The areas of special flood hazard, Zones A, and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Eddington, Maine, Penobscot County," dated January 1978 with accompanying "Flood Insurance Rate Map" dated July 3, 1978 and "Flood Boundary and Floodway Map" dated July 3, 1978, which are hereby adopted by reference and declared to be a part of this Ordinance.

ARTICLE II - PERMIT REQUIRED

Before any construction or other development (as defined in Article XIII), including the placement of manufactured homes, begins within any areas of special flood hazard established in Article I, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other permits which may be required pursuant to the codes and ordinances of the Town of Eddington, 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, address and phone number of the applicant, owner, and contractor;
- B. An address and a map indicating the location of the construction site;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, and lot dimensions;
- D. A statement of the intended use of the structure and/or development;

- E. A statement of the cost of the development including all materials and labor;
- F. A statement as to the type of sewage system proposed;
- G. Specification of dimensions of the proposed structure and/or development;

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

- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
 - 1. base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. in Zone A1-30, from data contained in the "Flood Insurance Study - Town of Eddington, Maine," as described in Article I; or,
 - b. in Zone A:
 - (1) from any base flood elevation data from federal, state, or other technical sources (such as FEMA's Quick-2 model, FEMA 265/July 1995), including information obtained pursuant to Article VI.K. and VIII.D.;
 - (2) from the contour elevation extrapolated from a best fit analysis of the floodplain boundary when overlaid onto a USGS Quadrangle Map or other topographic map prepared by a Professional Land Surveyor or registered professional engineer, if the floodplain boundary has a significant correlation to the elevation contour line(s); or, in the absence of all other data,
 - (3) to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building.
 - 2. highest and lowest grades at the site adjacent to the walls of the proposed building;
 - 3. lowest floor, including basement; and whether or not such structures contain a basement; and,
 - 4. level, in the case of non-residential structures only, to which the structure will be floodproofed;
- I. A description of an elevation reference point established on the site of all developments for which elevation standards apply as required in Article VI;
- J. A written certification by a Professional Land Surveyor, registered professional engineer or architect, that the base flood elevation and grade elevations shown on the application are accurate;
- K. The following certifications as required in Article VI by a registered professional engineer or architect:
 - 1. a Floodproofing Certificate (FEMA Form 81-65, 01/03, as amended), to verify that the floodproofing methods for any non-residential structures will meet the floodproofing criteria of Article III.H.4.; Article VI.G.; and other applicable standards in Article VI;

2. a Hydraulic Openings Certificate to verify that engineered hydraulic openings in foundation walls will meet the standards of Article VI.L.2.a.;
 3. a certified statement that bridges will meet the standards of Article VI.M.;
 4. a certified statement that containment walls will meet the standards of Article VI.N.;
- L. A description of the extent to which any water course will be altered or relocated as a result of the proposed development; and,
- M. A statement of construction plans describing in detail how each applicable development standard in Article VI will be met.

ARTICLE IV - APPLICATION FEE AND EXPERT'S FEE

A non-refundable application fee of \$25.00 for all minor development and \$50.00 for all new construction or substantial improvements shall be paid to the Town Clerk and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged if the 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 to hire expert assistance may appeal that decision to the Board of Appeals.

ARTICLE V - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed developments are reasonably safe from flooding and to determine that all pertinent requirements of Article VI (Development Standards) have been, or will be met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications:
 1. the base flood and floodway data contained in the "Flood Insurance Study - Town of Eddington, Maine," as described in Article I;
 2. in special flood hazard areas where base flood elevation and floodway data are not provided, the Code Enforcement Officer shall obtain, review and reasonably utilize any base flood elevation and floodway data from federal, state, or other technical sources, including information obtained pursuant to Article III.H.1.b.; Article VI.K.; and Article VIII.D., in order to administer Article VI of this Ordinance; and,
 3. when the community establishes a base flood elevation in a Zone A by methods outlined in Article III.H.1.b., the community shall submit that data to the Maine Floodplain Management Program in the State Planning Office.

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

ARTICLE VI - DEVELOPMENT STANDARDS

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

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

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

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

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

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

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

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

1. Zone A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.

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

1. Zone A1-30 shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. be floodproofed to at least one foot above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;

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

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

1. Zone A1-30 shall:
- a. be elevated such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation;
 - b. be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
 - c. be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - (1) over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
 - (2) frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
 - (3) all components of the anchoring system described in Article VI.H.1.c.(1)&(2) shall be capable of carrying a force of 4800 pounds.
2. Zone A shall:
- a. be elevated on a permanent foundation, as described in Article VI.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Article III.H.1.b.; Article V.B; or Article VIII.D.; and
 - b. meet the anchoring requirements of Article VI.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zone A1-30 shall either:
 - a. be on the site for fewer than 180 consecutive days,
 - b. be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
 - c. be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Article VI.H.1.

J. Accessory Structures - Accessory Structures, as defined in Article XIII, located within Zones A1-30, and A, shall be exempt from the elevation criteria required in Article VI.F. & G. above, if all other requirements of Article VI and all the following requirements are met. Accessory Structures shall:

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

K. Floodways -

1. In Zone A1-30 riverine areas, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted within a regulatory floodway which is designated on the community's "Flood Insurance Rate Map" or "Flood Boundary and Floodway Map," unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30, and A riverine areas for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in Article VI.K.3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:

- a. will not increase the water surface elevation of the base flood more than one foot at any point within the community; and,
 - b. is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study - Guidelines and Specifications for Study Contractors*, (FEMA 37/ January 1995, as amended).
3. In Zones A1-30, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.

L. Enclosed Areas Below the Lowest Floor - New construction or substantial improvement of any structure in Zones A1-30, and A that meets the development standards of Article VI, including the elevation requirements of Article VI, paragraphs F, G, or H and is elevated on posts, columns, piers, piles, "stilts," or crawlspaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:

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

M. Bridges - New construction or substantial improvement of any bridge in Zones A1-30, and A shall be designed such that:

1. when possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
2. a registered professional engineer shall certify that:

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

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

1. Zones A1-30, and A shall:

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

O. **Wharves, Piers and Docks** - New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A1-30, and A, in and over water and seaward of the mean high tide if the following requirements are met:

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

ARTICLE VII - CERTIFICATE OF COMPLIANCE

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

- A. For New Construction or Substantial Improvement of any elevated structure the applicant shall submit to the Code Enforcement Officer, an Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer, or architect, for compliance with Article VI, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
 - 1. review the Elevation Certificate and the applicant's written notification; and,

2. upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

ARTICLE VIII - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

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

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

ARTICLE IX - APPEALS AND VARIANCES

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

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

- A. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- B. Variances shall be granted only upon:
 1. a showing of good and sufficient cause; and,
 2. a determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and,

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

1. An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party within thirty days after receipt of a written decision of the Code Enforcement Officer or Planning Board.
2. Upon being notified of an appeal, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
3. The Board of Appeals shall hold a public hearing on the appeal within thirty-five days of its receipt of an appeal request.
4. The person filing the appeal shall have the burden of proof.
5. The Board of Appeals shall decide all appeals within thirty-five days after the close of the hearing, and shall issue a written decision on all appeals.
6. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.
7. Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five days from the date of any decision of the Board of Appeals.

ARTICLE X - ENFORCEMENT AND PENALTIES

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

ARTICLE XI - VALIDITY AND SEVERABILITY

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

ARTICLE XII - CONFLICT WITH OTHER ORDINANCES

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

ARTICLE XIII - DEFINITIONS

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

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

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

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

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

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

Building - see **Structure**.

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

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

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

Elevated Building - means a non-basement building

- a. built, in the case of a building in Zones A1-30, or A, to have the top of the elevated floor elevated above the ground level by means of pilings, columns, post, piers, or "stilts;" and

- b. adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood.

In the case of Zones A1-30, or A, **Elevated Building** also includes a building elevated by means of fill or solid foundation perimeter walls with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters, as required in Article VI.L..

Elevation Certificate - An official form (FEMA Form 81-31, 02/06, as amended) that:

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

Flood or Flooding - means:

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

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

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

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

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

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

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

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

Floodway - see **Regulatory Floodway**.

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

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

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

Historic Structure - means any structure that is:

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

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

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

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

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

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

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

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

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

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

Recreational Vehicle - means a vehicle which is:

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

Regulatory Floodway -

- a. means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and

- b. when not designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, it is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain, as measured from the normal high water mark to the upland limit of the floodplain.

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

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

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

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

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

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

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

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

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

ARTICLE XIV - ABROGATION

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

60.3 (d)



TOWN OF EDDINGTON

HOLDING TANK ORDINANCE

Adopted March 24, 1998

SECTION 1. PURPOSE. The purpose of this Ordinance is to establish procedures for the use and maintenance of holding tanks designed to receive and retain wastewater from residential or commercial uses. It is hereby declared that the protection, benefit, and preservation of the health, safety and welfare of the inhabitants of this municipality.

SECTION 2. DEFINITIONS. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

“Authority” shall mean Selectmen of Eddington, Penobscot County, Maine.

“Holding Tank”: A closed, water-tight structure designed and used to receive and store wastewater or septic tank effluent. A holding tank does not discharge wastewater or septic tank effluent to surface or ground water or onto the surface of the ground. Holding tanks are designed and constructed to facilitate ultimate disposal of wastewater at another site.

“Improved Property” shall mean any property within the municipality upon which there is a structure intended for continuous or periodic habitation, occupancy, or use by humans or animals and from which structure wastewater shall or may be discharged.

“Municipality” shall mean Town of Eddington, Penobscot County, Maine.

“Owner” shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the municipality.

“Person” shall mean any individual, partnership, company, association, corporation, or other group or entity.

“Wastewater” shall mean any liquid waste containing animal or vegetable matter in suspension or solution, or the water carried waste from the discharge of water closets, laundry tubs, washing machines, sinks, dishwasher, or other source of water carried wastes of human origin. This term specifically excludes industrial, hazardous, or toxic wastes and materials.

SECTION 3. RIGHTS AND PRIVILEGES GRANTED. The authority is hereby authorized and empowered to undertake, within the municipality, the control of and methods of disposal of holding tank wastewater and the collection and transportation thereof.

SECTION 4. RULES AND REGULATIONS TO BE IN CONFORMITY WITH APPLICABLE LAW. All such rules and regulations adopted by the Authority shall be in conformity with the provisions herein, all other ordinances of the Town of Eddington, all applicable laws, and applicable rules and regulations of the administrative agencies of the State of Maine. Holding tanks can not be used for seasonal conversion, see Subsection 301.0 of the State Plumbing Code or new construction within the shore land zone of a major water course.

SECTION 5. RATES AND CHARGES. The Authority shall have the right and power to fix, alter, charge, and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

SECTION 6. EXCLUSIVENESS OF RIGHTS AND PRIVILEGES. The collection and transportation of all wastewater from any improved property utilizing a holding tank shall be done solely by, or under the direction and control of, the Authority, and the disposal thereof shall be made at such a site or sites as may be approved by the Maine Department of Environmental Protection.

SECTION 7. DUTIES OF OWNER OF IMPROVED PROPERTY. The owner of an improved property that utilizes a holding tank shall:

- a. Maintain the holding tank in conformance with this or any other Ordinance of the Town of Eddington, the provisions of any applicable law, the rules and regulations of the Authority, and any administrative agency of the State of Maine: and
- b. Permit only the Authority, or its agent, to collect, transport, and dispose of the contents therein.

SECTION 8. VIOLATIONS. Any persons who violates any provisions of Section 7 shall, upon conviction thereof by summary proceedings, be sentenced to pay a fine of not less than One Hundred (\$100.00) and not more than Three Hundred (\$300.00) dollars, plus costs.

SECTION 9. ABATEMENT OF NUISANCES. In addition to any other remedies provided in this ordinance, any violation of Section 7 above shall constitute a nuisance and shall be abated by the Municipality or Authority by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

SECTION 10. ALTERNATIVE DISPOSAL. An alternative means of wastewater disposal shall meet first time system criteria. Replacement system criteria shall not be considered.

SECTION 11. REPEAL. All ordinances or resolutions, or parts of ordinances or resolutions, insofar as they are inconsistent herewith, are hereby repealed.

SECTION 12. SEVERABILITY. If any sentence, clause, Section, or part of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this ordinance.

SECTION 13. WATER USE MONITORING. The plumbing inspector may require the installation of a water meter to monitor the flow to the holding tank.

SECTION 14. EFFECTIVE DATE. This ordinance shall become effective five days after its adoption.

TOWN OF EDDINGTON

CULVERT POLICY

Enacted: January 12, 1982

Revised: May 11, 1984

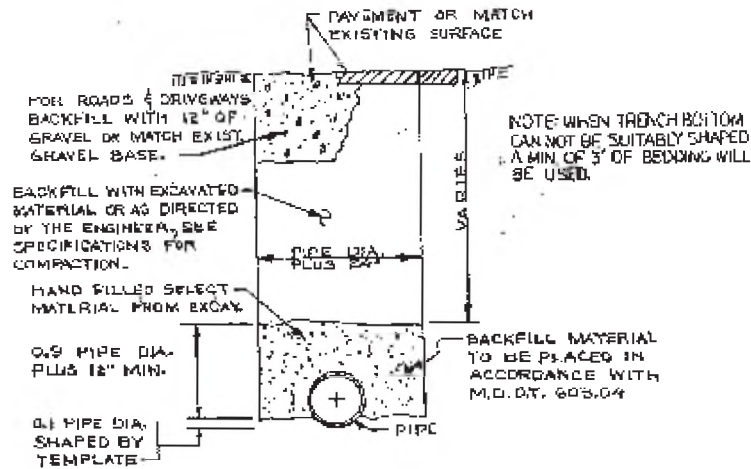
Revised: May 21, 1987

- SEC. I: The installation costs associated with the initial culvert or so-called “first culvert” will be the responsibility of the homeowner or taxpayer.
- SEC. II: The costs of replacing a culvert and, or resetting a culvert, will be the responsibility of the Town of Eddington, provided the culvert is installed originally, in accordance with the Town specifications. Replacement of pavement on a paved driveway will be the responsibility of the property owner and not the Town of Eddington.
- SEC. III: One of the following conditions shall be met for installation or resetting of a culvert:
- a) A homeowner or taxpayer may install or reset a culvert according to the Town’s specifications.
 - b) A homeowner or taxpayer may employ an individual or contractor to install or reset a culvert according to Town specifications.
- SEC. IV: All culverts shall be twelve (12) inches in diameter unless the Road Commissioner decides a larger culvert should be installed.
- SEC. V: Specifications for installing the culverts are on the reverse side of this policy.
- SEC. VI: The Road Commissioner shall determine the necessity of installing or resetting a culvert when it is deemed necessary for the protection of the Town way.

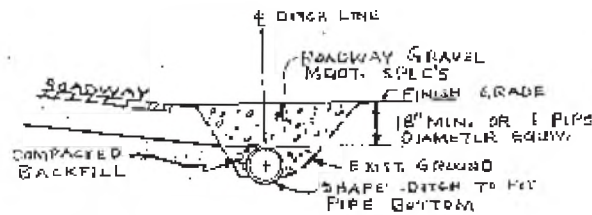
TOWN OF EDDINGTON, MAINE

P.O. BOX 98
E. EDDINGTON, MAINE 04428

INCORPORATED IN 1811
MUNICIPAL OFFICERS



CULVERT
TYPICAL TRENCH
NTS



TYPICAL CULVERT INSTALLATION
UNDER DRIVEWAYS

NOTE: Culverts installed across Town owned roads or under driveways which will become the responsibility of the Town for maintenance will be installed in accordance with these details.

TOWN OF EDDINGTON SHORELAND ZONING ORDINANCE

PREPARED BY

EDDINGTON PLANNING BOARD

ADOPTED: MARCH 19, 1991

REVISED: MARCH 28, 2000

REVISED: MARCH 25, 2008

ACCORDING TO STATE SHORELAND ZONE ORDINANCE
AT ANNUAL TOWN MEETING

AMENDED: MARCH 24, 2009

AT THE ANNUAL TOWN MEETING

TOWN OF EDDINGTON

SHORELAND ZONING ORDINANCE

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Shoreland Zoning Ordinance
for the Municipality of

EDDINGTON, MAINE

1. **Purposes.** The purposes of this Ordinance are to further the maintenance of safe and healthful conditions; to prevent and control water pollution; to protect fish spawning grounds, aquatic life, bird and other wildlife habitat; to protect buildings and lands from flooding and accelerated erosion; to protect archaeological and historic resources; to protect commercial fishing and maritime industries; to protect freshwater and coastal wetlands; to control building sites, placement of structures and land uses; to conserve shore cover, and visual as well as actual points of access to inland and coastal waters; to conserve natural beauty and open space; and to anticipate and respond to the impacts of development in shoreland areas.
2. **Authority.** This Ordinance has been prepared in accordance with the provisions of Title 38 sections 435-449 of the Maine Revised Statutes Annotated (M.R.S.A.).
3. **Applicability.** This Ordinance applies to all land areas within 250 feet, horizontal distance, of the
 - normal high-water line of any great pond or river,
 - upland edge of a coastal wetland, including all areas affected by tidal action, or
 - upland edge of a freshwater wetland, and
 - all land areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

This Ordinance also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending or located below the normal high-water line of a water body or within a wetland.

4. Effective Date

A. Effective Date of Ordinance and Ordinance Amendments. This Ordinance, which was adopted by the municipal legislative body on March 25, 2008, shall not be effective unless approved by the Commissioner of the Department of Environmental Protection. A certified copy of the Ordinance, or Ordinance Amendment, attested and signed by the Municipal Clerk, shall be forwarded to the Commissioner for approval. If the Commissioner fails to act on this Ordinance or Ordinance Amendment, within forty-five (45) days of his/her receipt of the Ordinance, or Ordinance Amendment, it shall be automatically approved. Adoption and approval of this Ordinance hereby rescinds and replaces the Eddington Shoreland Zoning Ordinance of March 19, 1991 and all subsequent amendments thereto.

Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of this Ordinance, or Ordinance Amendment, if the Ordinance, or Ordinance Amendment, is approved by the Commissioner.

B. Repeal of Municipal Timber Harvesting Regulation. The municipal regulation of timber harvesting activities is repealed on the statutory date established under 38 M.R.S.A. section 438-A(5), at which time the State of Maine Department of Conservation's Bureau of Forestry shall administer timber harvesting standards in the shoreland zone. On the date established under 38 M.R.S.A. section 438-A(5), the following provisions of this Ordinance are repealed:

- Section 14. Table of Land Uses, Column 3 (Forest management activities except for timber harvesting) and Column 4 (Timber harvesting);
 - Section 15(O) in its entirety; and
 - Section 17. Definitions, the definitions of “forest management activities” and “residual basal area”.
5. **Availability.** A certified copy of this Ordinance shall be filed with the Municipal Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.
6. **Severability.** Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
7. **Conflicts with Other Ordinances.** Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other ordinance, regulation or statute administered by the municipality, the more restrictive provision shall control.
8. **Amendments.** This Ordinance may be amended by majority vote of the legislative body. Copies of amendments, attested and signed by the Municipal Clerk, shall be submitted to the Commissioner of the Department of Environmental Protection following adoption by the municipal legislative body and shall not be effective unless approved by the Commissioner. If the Commissioner fails to act on any amendment within forty-five (45) days of his/her receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the municipality within the forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Commissioner.
9. **Districts and Zoning Map**
- A. **Official Shoreland Zoning Map.** The areas to which this Ordinance is applicable are hereby divided into the following districts as shown on the Official Shoreland Zoning Map(s) which is (are) made a part of this Ordinance:
- (1) Resource Protection
 - (2) Limited Residential
 - (3) Stream Protection
- B. **Scale of Map.** The Official Shoreland Zoning Map shall be drawn at a scale of not less than: 1 inch = 2000 feet. District boundaries shall be clearly delineated and a legend indicating the symbols for each district shall be placed on the map.
- C. **Certification of Official Shoreland Zoning Map.** The Official Shoreland Zoning Map shall be certified by the attested signature of the Municipal Clerk and shall be located in the municipal office. In the event the municipality does not have a municipal office, the Municipal Clerk shall be the custodian of the map.
- D. **Changes to the Official Shoreland Zoning Map.** If amendments, in accordance with Section 8, are made in the district boundaries or other matter portrayed on the Official Shoreland Zoning Map, such changes shall be made on the Official Shoreland Zoning Map within thirty (30) days after the amendment has been approved by the Commissioner of the Department of Environmental Protection.
10. **Interpretation of District Boundaries.** Unless otherwise set forth on the Official Shoreland Zoning Map, district boundary lines are property lines, the centerlines of streets, roads and rights of way, and

the boundaries of the shoreland area as defined herein. Where uncertainty exists as to the exact location of district boundary lines, the Board of Appeals shall be the final authority as to location.

11. Land Use Requirements. Except as hereinafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, expanded, moved, or altered and no new lot shall be created except in conformity with all of the regulations herein specified for the district in which it is located, unless a variance is granted.

12. Non-conformance.

A. Purpose. It is the intent of this Ordinance to promote land use conformities, except that non-conforming conditions that existed before the effective date of this Ordinance or amendments thereto shall be allowed to continue, subject to the requirements set forth in Section 12. Except as otherwise provided in this Ordinance, a non-conforming condition shall not be permitted to become more non-conforming.

B. General

- (1) **Transfer of Ownership.** Non-conforming structures, lots, and uses may be transferred, and the new owner may continue the non-conforming use or continue to use the non-conforming structure or lot, subject to the provisions of this Ordinance.
- (2) **Repair and Maintenance.** This Ordinance allows, without a permit, the normal upkeep and maintenance of non-conforming uses and structures including repairs or renovations that do not involve expansion of the non-conforming use or structure, and such other changes in a non-conforming use or structure as federal, state, or local building and safety codes may require.

C. Non-conforming Structures

- 1) **Expansions.** A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure, and is in accordance with subparagraphs (a), and (b) below.
- (a) **Legally existing non-conforming principal and accessory structures that do not meet the water body, tributary stream, or wetland setback requirements may be expanded or altered as follows, as long as all other applicable standards contained in this Ordinance are met.**
 - i. Expansion of any portion of a structure within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland is prohibited, even if the expansion will not increase nonconformity with the water body, tributary stream or wetland setback requirement.
 - ii. Expansion of an accessory structure that is located closer to the normal high-water line of a water body, tributary stream, or upland edge of a wetland than the principal structure is prohibited, even if the expansion will not increase nonconformity with the water body or wetland setback requirement.
 - iii. For structures located less than 75 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total floor area for all portions of those structures within that 75-foot distance is 1,000 square feet, and the maximum height of any portion of a structure that is within 75 feet, horizontal distance, of a water body, tributary stream or upland edge of a wetland is 20 feet or the height of the existing structure, whichever is greater.

- iv. For structures located less than 100 feet, horizontal distance, from the normal high-water line of a great pond classified as GPA or a river flowing to a great pond classified as GPA, the maximum combined total floor area for all portions of those structures within that 100-foot distance is 1,500 square feet, and the maximum height of any portion of a structure that is within 100 feet, horizontal distance, of a great pond is 25 feet or the height of the existing structure, whichever is greater, except that any portion of those structures located less than 75 feet, horizontal distance from the normal high-water line of a water body, tributary stream, or the upland edge of a wetland must meet the floor area and height limits of division (iii).

For the purposes of Section 12(C)(1)(a), a basement is not counted toward floor area.

- (b) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board or its designee, basing its decision on the criteria specified in Section 12(C)(2) Relocation, below. If the completed foundation does not extend beyond the exterior dimensions of the structure and the foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure, it shall not be considered to be an expansion of the structure.
- (2) Relocation. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board or its designee, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board or its designee shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- (a) Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- (b) Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- (3) Reconstruction or Replacement. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed, or damaged or destroyed, regardless of the cause, by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that a permit is obtained within eighteen (18) months of the date of said damage, destruction, or removal, and provided that such reconstruction or replacement is in compliance with the water body, tributary stream or wetland setback requirement to the greatest practical extent as determined by the Planning Board or its designee in accordance with the purposes of this Ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Section 12(C)(1) above, as determined by the non-conforming floor area and volume of the reconstructed or replaced structure at its new location. If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replanted in accordance with Section 12(C)(2) above.

Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value of the structure, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such damage, destruction, or removal.

In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent the Planning Board or its designee shall consider, in addition to the criteria in Section 12(C)(2) above, the physical condition and type of foundation present, if any.

- (4) Change of Use of a Non-conforming Structure. The use of a non-conforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archaeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

D. Non-conforming Uses

- (1) Expansions. Expansions of non-conforming uses are prohibited, except that non-conforming residential uses may, after obtaining a permit from the Planning Board, be expanded within existing residential structures or within expansions of such structures as allowed in Section 12(C)(1)(a) above.
- (2) Resumption Prohibited. A lot, building or structure in or on which a non-conforming use is discontinued for a period exceeding one year, or which is superseded by a conforming use, may not again be devoted to a non-conforming use except that the Planning Board may, for good cause shown by the applicant, grant up to a one year extension to that time period. This provision shall not apply to the resumption of a use of a residential structure provided that the structure has been used or maintained for residential purposes during the preceding five (5) year period.
- (3) Change of Use. An existing non-conforming use may be changed to another non-conforming use provided that the proposed use has no greater adverse impact on the subject and adjacent properties and resources than the former use, as determined by the Planning Board. The determination of no greater adverse impact shall be made according to criteria listed in Section 12(C)(4) above.

E. Non-conforming Lots

- (1) Non-conforming Lots: A non-conforming lot of record as of the effective date of this Ordinance or amendment thereto may be built upon, without the need for a variance, provided that such lot is in separate ownership and not contiguous with any other lot in the same ownership, and that all provisions of this Ordinance except lot area, lot width and shore frontage can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained by action of the Board of Appeals.
- (2) Contiguous Built Lots: If two or more contiguous lots or parcels are in a single or joint ownership of record at the time of adoption of this Ordinance, if all or part of the lots do not meet the dimensional requirements of this Ordinance, and if a principal use or structure exists on each lot, the non-conforming lots may be conveyed separately or together, provided that the State Minimum Lot Size Law (12 M.R.S.A. sections 4807-A through 4807-D) and the State of Maine Subsurface Wastewater Disposal Rules are complied with.

If two or more principal uses or structures existed on a single lot of record on the effective date of this ordinance, each may be sold on a separate lot provided that the above referenced law and rules are complied with. When such lots are divided each lot thus created must be as conforming as possible to the dimensional requirements of this Ordinance.

- (3) Contiguous Lots - Vacant or Partially Built: If two or more contiguous lots or parcels are in single or joint ownership of record on March 19, 1991 or thereafter, if any of these lots do not individually meet the dimensional requirements of this Ordinance or subsequent amendments, and if one or more of the lots are vacant or contain no principal structure the lots shall be combined to the extent necessary to meet the dimensional requirements.

This provision shall not apply to 2 or more contiguous lots, at least one of which is non-conforming, owned by the same person or persons prior to March 19, 1991 and recorded in the registry of deeds if the lot is served by a public sewer or can accommodate a subsurface sewage disposal system in conformance with the State of Maine Subsurface Wastewater Disposal Rules; and

- (a) Each lot contains at least 100 feet of shore frontage and at least 20,000 square feet of lot area; or

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

13. Establishment of Districts

- A. Resource Protection District.** The Resource Protection District includes areas in which development would adversely affect water quality, productive habitat, biological ecosystems, or scenic and natural values. This district shall include the following areas when they occur within the limits of the shoreland zone, exclusive of the Stream Protection District, except that areas which are currently developed need not be included within the Resource Protection District.
- (1) Areas within 250 feet, horizontal distance, of the upland edge of freshwater wetlands, salt marshes and salt meadows, and wetlands associated with great ponds and rivers, which are rated "moderate" or "high" value waterfowl and wading bird habitat, including nesting and feeding areas, by the Maine Department of Inland Fisheries and Wildlife (MDIF&W) that are depicted on a Geographic Information System (GIS) data layer maintained by either MDIF&W or the Department as of May 1, 2006. For the purposes of this paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with a great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.
 - (2) Floodplains along rivers and floodplains along artificially formed great ponds along rivers, defined by the 100 year floodplain as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent floodplain soils. This district shall also include 100 year floodplains adjacent to tidal waters as shown on FEMA's Flood Insurance Rate Maps or Flood Hazard Boundary Maps.
 - (3) Areas of two or more contiguous acres with sustained slopes of 20% or greater.
 - (4) Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater or coastal wetland as defined, and which are not surficially connected to a water body during the period of normal high water.
 - (5) Land areas along rivers subject to severe bank erosion, undercutting, or river bed movement, and lands adjacent to tidal waters which are subject to severe erosion or mass movement, such as steep coastal bluffs.
- B. Limited Residential District.** The Limited Residential District includes those areas suitable for residential and recreational development. It includes areas other than those in the Resource Protection District, or Stream Protection District.
- C. Stream Protection District.** The Stream Protection District includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream, exclusive of those areas within two-hundred and fifty (250) feet, horizontal distance, of the normal high-water line of a great pond, or river, or within two hundred and fifty (250) feet, horizontal distance, of the upland edge of a freshwater or coastal wetland. Where a stream and its associated shoreland area are located within two-hundred and fifty (250) feet, horizontal distance, of the above water bodies or wetlands, that land area shall be regulated under the terms of the shoreland district associated with that water body or wetland.

14. Table of Land Uses. All land use activities, as indicated in Table 1, Land Uses in the Shoreland Zone, shall conform with all of the applicable land use standards in Section 15. The district designation for a particular site shall be determined from the Official Shoreland Zoning Map.

Key to Table 1:

Yes - Allowed (no permit required but the use must comply with all applicable land use standards.)

No - Prohibited

PB - Allowed with permit issued by the Planning Board.

CEO - Allowed with permit issued by the Code Enforcement Officer

LPI - Allowed with permit issued by the Local Plumbing Inspector

Abbreviations:

RP - Resource Protection

LR - Limited Residential

SP - Stream Protection

TABLE 1. LAND USES IN THE SHORELAND ZONE

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

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

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

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

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

⁵Functionally water-dependent uses and uses accessory to such water dependent uses only (See note on previous page).

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

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

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

⁹Single family residential structures may be allowed by special exception only according to the provisions of Section 16(E), Special Exceptions. Two-family residential structures are prohibited.

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

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

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

15. Land Use Standards. All land use activities within the shoreland zone shall conform with the following provisions, if applicable.

A. Minimum Lot Standards

	Minimum Lot Area (sq. ft.)	Minimum Shore Frontage (ft.)
(1)		
(a) Residential per dwelling unit	87,120	200
(i) Within the Shoreland Zone Adjacent to Tidal Areas	87,120	200
(ii) Within the Shoreland Zone Adjacent to Non-Tidal Areas	87,120	200
(b) Governmental, Institutional, Commercial or Industrial per principal structure		
(i) Within the Shoreland Zone Adjacent to Tidal Areas	87,160	200
(ii) Within the Shoreland Zone Adjacent to Non-tidal Areas	87,160	300
(c) Public and Private Recreational Facilities		
(i) Within the Shoreland Zone Adjacent to Tidal and Non-Tidal Areas	87,160	200
(2) Land below the normal high-water line of a water body or upland edge of a wetland and land beneath roads serving more than two (2) lots shall not be included toward calculating minimum lot area.		
(3) Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof after September 22, 1971.		
(4) The minimum width of any portion of any lot within one hundred (100) feet, horizontal distance, of the normal high-water line of a water body or upland edge of a wetland shall be equal to or greater than the shore frontage requirement for a lot with the proposed use.		
(5) If more than one residential dwelling unit, principal governmental, institutional, commercial or industrial structure or use, or combination thereof, is constructed or established on a single parcel, all dimensional requirements shall be met for each additional dwelling unit, principal structure, or use.		

B. Principal and Accessory Structures

- (1) All new principal and accessory structures shall be set back at least one hundred (100) feet, horizontal distance, from the normal high-water line of great ponds classified GPA and rivers that flow to great ponds classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland. In the Resource Protection District the setback requirement shall be 250 feet, horizontal distance, except for structures, roads, parking spaces or other regulated objects specifically allowed in that district in which case the setback requirements specified above shall apply.

In addition:

- (a) The water body, tributary stream, or wetland setback provision shall neither apply to structures which require direct access to the water body or wetland as an operational necessity, such as piers, docks and retaining walls, nor to other functionally water-dependent uses.
 - (b) For principal structures, water and wetland setback measurements shall be taken from the top of a coastal bluff that has been identified on Coastal Bluff maps as being “highly unstable” or “unstable” by the Maine Geological Survey pursuant to its “Classification of Coastal Bluffs” and published on the most recent Coastal Bluff map. If the applicant and the permitting official(s) are in disagreement as to the specific location of a “highly unstable” or “unstable” bluff, or where the top of the bluff is located, the applicant may at his or her expense, employ a Maine Registered Professional Engineer, a Maine Certified Soil Scientist, a Maine State Geologist, or other qualified individual to make a determination. If agreement is still not reached, the applicant may appeal the matter to the board of appeals.
 - (c) On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.
- (2) Principal or accessory structures and expansions of existing structures which are permitted in the Resource Protection, Limited Residential, and Stream Protection Districts, shall not exceed thirty-five (35) feet in height. This provision shall not apply to structures such as transmission towers, windmills, antennas, and similar structures having no floor area.
 - (3) The lowest floor elevation or openings of all buildings and structures, including basements, shall be elevated at least one foot above the elevation of the 100 year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood-plain soils. In those municipalities that participate in the National Flood Insurance Program and have adopted the April 2005 version, or later version, of the Floodplain Management Ordinance, accessory structures may be placed in accordance with the standards of that ordinance and need not meet the elevation requirements of this paragraph.

- (4) The total footprint area of all structures, parking lots and other non-vegetated surfaces, within the shoreland zone shall not exceed twenty (20) percent of the lot or a portion thereof, located within the shoreland zone, including land area previously developed.
- (5) Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:
 - (a) The site has been previously altered and an effective vegetated buffer does not exist;
 - (b) The wall(s) is(are) at least 25 feet, horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;
 - (b) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;
 - (c) The total height of the wall(s), in the aggregate, are no more than 24 inches;
 - (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.
 - (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
 - (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:
 - (i) The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;
 - (ii) Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;
 - (iii) Only native species may be used to establish the buffer area;
 - (iv) A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;
 - (v) A footpath not to exceed the standards in Section 15(P)(2)(a), may traverse the buffer;

- (6) Notwithstanding the requirements stated above, stairways or similar structures may be allowed with a permit from the Code Enforcement Officer, to provide shoreline access in areas of steep slopes or unstable soils provided: that the structure is limited to a maximum of four (4) feet in width; that the structure does not extend below or over the normal high-water line of a water body or upland edge of a wetland, (unless permitted by the Department of Environmental Protection pursuant to the Natural Resources Protection Act, 38 M.R.S.A. section 480-C); and that the applicant demonstrates that no reasonable access alternative exists on the property.

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

- (1) Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
- (2) The location shall not interfere with existing developed or natural beach areas.
- (3) The facility shall be located so as to minimize adverse effects on fisheries.
- (4) The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses.
- (5) No new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.
- (6) New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
- (7) No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district.
- (8) Structures built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure.

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

- (1) Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- (2) The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river flowing to a great

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

E. Individual Private Campsites. Individual private campsites not associated with campgrounds are allowed provided the following conditions are met:

- (1) One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shoreland zone, whichever is less, may be permitted.
- (2) Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland.
- (3) Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structure except a canopy shall be attached to the recreational vehicle.
- (4) The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1000) square feet.
- (5) A written sewage disposal plan describing the proposed method and location of sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility or land owner is required.
- (6) When a recreational vehicle, tent or similar shelter is placed on-site for more than one hundred and twenty (120) days per year, all requirements for residential structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules unless served by public sewage facilities.

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

- (1) Auto washing facilities
- (2) Auto or other vehicle service and/or repair operations, including body shops
- (3) Chemical and bacteriological laboratories
- (4) Storage of chemicals, including herbicides, pesticides or fertilizers, other than amounts normally associated with individual households or farms
- (5) Commercial painting, wood preserving, and furniture stripping
- (6) Dry cleaning establishments

- (7) Electronic circuit assembly
- (8) Laundromats, unless connected to a sanitary sewer
- (9) Metal plating, finishing, or polishing
- (10) Petroleum or petroleum product storage and/or sale except storage on same property as use occurs and except for storage and sales associated with marinas
- (11) Photographic processing
- (12) Printing

G. Parking Areas

- (1) Parking areas shall meet the shoreline and tributary stream setback requirements for structures for the district in which such areas are located. The setback requirement for parking areas serving public boat launching facilities shall be no less than fifty (50) feet, horizontal distance, from the shoreline or tributary stream if the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream.
- (2) Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site.
- (3) In determining the appropriate size of proposed parking facilities, the following shall apply:
 - (a) Typical parking space: Approximately ten (10) feet wide and twenty (20) feet long, except that parking spaces for a vehicle and boat trailer shall be forty (40) feet long.
 - (b) Internal travel aisles: Approximately twenty (20) feet wide.

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

- (1) Roads and driveways shall be set back at least one-hundred (100) feet, horizontal distance, from the normal high-water line of a great pond classified GPA or a river that flows to a great pond classified GPA, and seventy-five (75) feet, horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.

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

Section 15 (H)(1) does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Roads and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of Section 15(H)(1) except for that portion of the road or driveway necessary for direct access to the structure.

- (2) Existing public roads may be expanded within the legal road right of way regardless of their setback from a water body, tributary stream or wetland.
- (3) New roads and driveways are prohibited in a Resource Protection District except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.
- (4) Road and driveway banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 15(Q).
- (5) Road and driveway grades shall be no greater than ten (10) percent except for segments of less than two hundred (200) feet.
- (6) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- (7) Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:
 - (a) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

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

- (b) Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10) percent or less.
- (c) On sections having slopes greater than ten (10) percent, ditch relief culverts shall be placed at approximately a thirty (30) degree angle downslope from a line perpendicular to the centerline of the road or driveway.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (8) Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

I Signs. The following provisions shall govern the use of signs in the Resource Protection, Stream Protection and Limited Residential Districts:

- (1) Signs relating to goods and services sold on the premises shall be allowed, provided that such signs shall not exceed two (2) square feet in area and shall be limited to one (1) sign per premises
- (2) Name signs are allowed, provided such signs shall not exceed two (2) square feet in area and shall be limited to one (1) sign per premises
- (3) Residential users may display a single sign not over three (3) square feet in area relating to the sale, rental, or lease of the premises.
- (4) Signs relating to trespassing and hunting shall be allowed without restriction as to number provided that no such sign shall exceed two (2) square feet in area.
- (5) Signs relating to public safety shall be allowed without restriction.
- (6) No sign shall extend higher than twenty (20) feet above the ground.
- (7) Signs may be illuminated only by shielded, non-flashing lights.

J. Storm Water Runoff

- (1) All new construction and development shall be designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas, shall be retained in order to reduce runoff and encourage infiltration of stormwaters.

- (2) Storm water runoff control systems shall be maintained as necessary to ensure proper functioning.

K. Septic Waste Disposal

- (1) All subsurface sewage disposal systems shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules, and the following: a) clearing or removal of woody vegetation necessary to site a new system and any associated fill extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland and b) a holding tank is not allowed for a first-time residential use in the shoreland zone.

L. Essential Services

- (1) Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
- (2) The installation of essential services, other than road-side distribution lines, is not allowed in a Resource Protection or Stream Protection District, except to provide services to a permitted use within said district, or except where the applicant demonstrates that no reasonable alternative exists. Where allowed, such structures and facilities shall be located so as to minimize any adverse impacts on surrounding uses and resources, including visual impacts.
- (3) Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

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

Mineral extraction may be permitted under the following conditions:

- (1) A reclamation plan shall be filed with, and approved, by the Planning Board before a permit is granted. Such plan shall describe in detail procedures to be undertaken to fulfill the requirements of Section 15 (M)(4) below.
- (2) No part of any extraction operation, including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland. Extraction operations shall not be

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

- (3) Within twelve (12) months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than one hundred (100) cubic yards of materials are removed in any consecutive twelve (12) month period, ground levels and grades shall be established in accordance with the following:
 - (a) All debris, stumps, and similar material shall be removed for disposal in an approved location, or shall be buried on-site. Only materials generated on-site may be buried or covered on-site.
 - (b) The final graded slope shall be two and one-half to one (2 1/2:1) slope or flatter.
 - (c) Top soil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary to complete the stabilization project.
- (4) In keeping with the purposes of this Ordinance, the Planning Board may impose such conditions as are necessary to minimize the adverse impacts associated with mineral extraction operations on surrounding uses and resources.

N. Agriculture

- (1) All spreading of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209).
- (2) Manure shall not be stored or stockpiled within one hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, or within seventy-five (75) feet horizontal distance, of other water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated storm water.
- (3) Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area, within the shoreland zone shall require a Conservation Plan to be filed with the Planning Board. Non-conformance with the provisions of said plan shall be considered to be a violation of this Ordinance.
- (4) There shall be no new tilling of soil within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, from other water bodies and coastal wetlands; nor within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.
- (5) Newly established livestock grazing areas shall not be permitted within one hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA; within seventy-five (75) feet, horizontal distance, of other water bodies and coastal wetlands, nor; within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater

wetlands. Livestock grazing associated with ongoing farm activities, and which are not in conformance with the above setback provisions may continue, provided that such grazing is conducted in accordance with a Conservation Plan.

O. Timber Harvesting

- (1) In a Resource Protection District abutting a great pond, timber harvesting shall be limited to the following:
 - (a) Within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line there shall be no timber harvesting except to remove safety hazards.
 - (b) Beyond the 75 foot strip referred to in Section 15(O)(1)(a) above, timber harvesting is permitted in accordance with paragraph 2 below except that in no case shall the average residual basal area of trees over 4 ½ inches in diameter at 4 1/2 feet above ground level be reduced to less than 30 square feet per acre.
- (2) Except in areas as described in Section 15(O)(1) above, timber harvesting shall conform with the following provisions:
 - (a) Selective cutting of no more than forty (40) percent of the total volume of trees four (4) inches or more in diameter measured at 4 1/2 feet above ground level on any lot in any ten (10) year period is permitted. In addition:
 - (i) Within one-hundred (100) feet, horizontal distance, of the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland, there shall be no clearcut openings and a well-distributed stand of trees and other vegetation, including existing ground cover, shall be maintained.
 - (ii) At distances greater than one-hundred (100) feet, horizontal distance, of a great pond classified GPA or a river flowing to a great pond classified GPA, and greater than seventy-five (75) feet, horizontal distance, of the normal high-water line of other water bodies or the upland edge of a wetland, harvesting operations shall not create single clearcut openings greater than ten-thousand (10,000) square feet in the forest canopy. Where such openings exceed five-thousand (5000) square feet they shall be at least one hundred (100) feet, horizontal distance, apart. Such clearcut openings shall be included in the calculation of total volume removal. Volume may be considered to be equivalent to basal area.
 - (b) Timber harvesting operations exceeding the 40% limitation in Section 15(O)(2)(a) above, may be allowed by the planning board upon a clear showing, including a forest management plan signed by a Maine licensed professional forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this Ordinance. The planning board shall notify the Commissioner of the Department of Environmental Protection of each exception allowed, within fourteen (14) days of the planning board's decision.

- (c) No accumulation of slash shall be left within fifty (50) feet, horizontal distance, of the normal high-water line of a water body. In all other areas slash shall either be removed or disposed of in such a manner that it lies on the ground and no part thereof extends more than four (4) feet above the ground. Any debris that falls below the normal high-water line of a water body or tributary stream shall be removed.
- (d) Timber harvesting equipment shall not use stream channels as travel routes except when:
 - (i) Surface waters are frozen; and
 - (ii) The activity will not result in any ground disturbance.
- (e) All crossings of flowing water shall require a bridge or culvert, except in areas with low banks and channel beds which are composed of gravel, rock or similar hard surface which would not be eroded or otherwise damaged.
- (f) Skid trail approaches to water crossings shall be located and designed so as to prevent water runoff from directly entering the water body or tributary stream. Upon completion of timber harvesting, temporary bridges and culverts shall be removed and areas of exposed soil revegetated.
- (g) Except for water crossings, skid trails and other sites where the operation of machinery used in timber harvesting results in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least seventy-five (75) feet, horizontal distance, in width for slopes up to ten (10) percent shall be retained between the exposed mineral soil and the normal high-water line of a water body or upland edge of a wetland. For each ten (10) percent increase in slope, the unscarified strip shall be increased by twenty (20) feet, horizontal distance. The provisions of this paragraph apply only to a face sloping toward the water body or wetland, provided, however, that no portion of such exposed mineral soil on a back face shall be closer than twenty five (25) feet, horizontal distance, from the normal high-water line of a water body or upland edge of a wetland.

P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting

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

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

- (2) Except in areas as described in Section P(1), above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from any other water body, tributary stream, or the upland edge of a wetland, a buffer strip of vegetation shall be preserved as follows:
 - (a) There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the

outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- (b) Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other natural vegetation is maintained. For the purposes of Section 15(P)(2)(b) a "well-distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25-foot by 50-foot rectangular (1250 square feet) area as determined by the following rating system.

Diameter of Tree at 4-1/2 feet Above Ground Level (inches)	Points
2 - < 4 in.	1
4 - < 8 in.	2
8 - < 12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25-foot by 50-foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;
- (iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;
- (iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by is Ordinance;
- (v) Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of Section 15(P)(2)(b) "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 ½) feet above ground level for each 25-foot by 50-foot rectangle area. If five saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- (c) In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other ground cover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide for a footpath or other permitted uses as described in Section 15(P) paragraphs (2) and (2)(a) above.

(d) Pruning of tree branches, on the bottom 1/3 of the tree is allowed.

(e) In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

Section 15(P)(2) does not apply to those portions of public recreational facilities adjacent to public swimming areas as long as cleared areas are limited to the minimum area necessary.

(3) At distances greater than one hundred (100) feet, horizontal distance, from a great pond classified GPA or a river flowing to a great pond classified GPA, and seventy-five (75) feet, horizontal distance, from the normal high-water line of any other water body, tributary stream, or the upland edge of a wetland, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2 feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

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

(4) Legally existing nonconforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.

(5) Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of Section 15(P).

Q. Erosion and Sedimentation Control

(1) All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall also require a written soil erosion and sedimentation control plan. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

(a) Mulching and revegetation of disturbed soil.

(b) Temporary runoff control features such as hay bales, silt fencing or diversion ditches.

(c) Permanent stabilization structures such as retaining walls or rip-rap.

(2) In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.

- (3) Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
 - (4) Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases permanent stabilization shall occur within nine (9) months of the initial date of exposure. In addition:
 - (a) Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - (b) Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.
 - (c) Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - (5) Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainageways shall be designed and constructed in order to carry water from a twenty five (25) year storm or greater, and shall be stabilized with vegetation or lined with riprap.
- R. Soils.** All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, whether during or after construction. Proposed uses requiring subsurface waste disposal, and commercial or industrial development and other similar intensive land uses, shall require a soils report based on an on-site investigation and be prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- S. Water Quality.** No activity shall deposit on or into the ground or discharge to the waters of the State any pollutant that, by itself or in combination with other activities or substances, will impair designated uses or the water classification of the water body, tributary stream or wetland.
- T. Archaeological Site.** Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on the National Register of Historic Places, as determined by the permitting authority, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and comment, at least twenty (20) days prior to action being taken by the permitting authority. The permitting authority shall consider comments received from the Commission prior to rendering a decision on the application.

16. Administration

A. Administering Bodies and Agents

- (1) Code Enforcement Officer. A Code Enforcement Officer shall be appointed or reappointed annually by July 1st.
- (2) Board of Appeals. A Board of Appeals shall be created in accordance with the provisions of 30-A M.R.S.A. section 2691.
- (3) Planning Board. A Planning Board shall be created in accordance with the provisions of State law.

B. Permits Required. After the effective date of this Ordinance no person shall, without first obtaining a permit, engage in any activity or use of land or structure requiring a permit in the district in which such activity or use would occur; or expand, change, or replace an existing use or structure; or renew a discontinued nonconforming use. A person who is issued a permit pursuant to this Ordinance shall have a copy of the permit on site while the work authorized by the permit is performed.

- (1) A permit is not required for the replacement of an existing road culvert as long as:
 - (a) The replacement culvert is not more than 25% longer than the culvert being replaced;
 - (b) The replacement culvert is not longer than 75 feet; and
 - (c) Adequate erosion control measures are taken to prevent sedimentation of the water, and the crossing does not block fish passage in the watercourse.
- (2) A permit is not required for an archaeological excavation as long as the excavation is conducted by an archaeologist listed on the State Historic Preservation Officer's level 1 or level 2 approved list, and unreasonable erosion and sedimentation is prevented by means of adequate and timely temporary and permanent stabilization measures.
- (3) Any permit required by this Ordinance shall be in addition to any other permit required by other law or ordinance.

C. Permit Application

- (1) Every applicant for a permit shall submit a written application, including a scaled site plan, on a form provided by the municipality, to the appropriate official as indicated in Section 14.
- (2) All applications shall be signed by an owner or individual who can show evidence of right, title or interest in the property or by an agent, representative, tenant, or contractor of the owner with authorization from the owner to apply for a permit hereunder, certifying that the information in the application is complete and correct.
- (3) All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

- (4) If the property is not served by a public sewer, a valid plumbing permit or a completed application for a plumbing permit, including the site evaluation approved by the Plumbing Inspector, shall be submitted whenever the nature of the proposed structure or use would require the installation of a subsurface sewage disposal system.

D. Procedure for Administering Permits. Within 35 days of the date of receiving a written application, the Planning Board or Code Enforcement Officer, as indicated in Section 14, shall notify the applicant in writing either that the application is a complete application, or, if the application is incomplete, that specified additional material is needed to make the application complete. The Planning Board or the Code Enforcement Officer, as appropriate, shall approve, approve with conditions, or deny all permit applications in writing within 35 days of receiving a completed application. However, if the Planning Board has a waiting list of applications, a decision on the application shall occur within 35 days after the first available date on the Planning Board's agenda following receipt of the completed application, or within 35 days of the public hearing, if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance.

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

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

- (1) Will maintain safe and healthful conditions;
- (2) Will not result in water pollution, erosion, or sedimentation to surface waters;
- (3) Will adequately provide for the disposal of all wastewater;
- (4) Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- (5) Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
- (6) Will protect archaeological and historic resources as designated in the comprehensive plan;
- (7) Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities district;
- (8) Will avoid problems associated with floodplain development and use; and
- (9) Is in conformance with the provisions of Section 15, Land Use Standards.

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

E. Special Exceptions. In addition to the criteria specified in Section 16(D) above, excepting structure setback requirements, the Planning Board may approve a permit for a single family residential structure in a Resource Protection District provided that the applicant demonstrates that all of the following conditions are met:

- (1) There is no location on the property, other than a location within the Resource Protection District, where the structure can be built.
- (2) The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District.
- (3) All proposed buildings, sewage disposal systems and other improvements are:
 - (a) Located on natural ground slopes of less than 20%; and
 - (b) Located outside the floodway of the 100-year flood-plain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps; all buildings, including basements, are elevated at least one foot above the 100-year flood-plain elevation; and the development is otherwise in compliance with any applicable municipal flood-plain ordinance.

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

- (4) The total ground-floor area, including cantilevered or similar overhanging extensions, of all principal and accessory structures is limited to a maximum of 1,500 square feet. This limitation shall not be altered by variance.
- (5) All structures, except functionally water-dependent structures, are set back from the normal high-water line of a water body, tributary stream or upland edge of a wetland to the greatest practical extent, but not less than 75 feet, horizontal distance. In determining the greatest practical extent, the Planning Board shall consider the depth of the lot, the slope of the land, the potential for soil erosion, the type and amount of vegetation to be removed, the proposed building site's elevation in regard to the flood-plain, and its proximity to moderate-value and high-value wetlands.

F. Expiration of Permit. Permits shall expire one year from the date of issuance if a substantial start is not made in construction or in the use of the property during that period. If a substantial start is made within one year of the issuance of the permit, the applicant shall have one additional year to complete the project, at which time the permit shall expire.

G. Installation of Public Utility Service. A public utility, water district, sanitary district or any utility company of any kind may not install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this or any previous Ordinance has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officials and the utility.

H. Appeals

- (1) Powers and Duties of the Board of Appeals. The Board of Appeals shall have the following powers:
 - (a) Administrative Appeals: To hear and decide administrative appeals, on an appellate basis, where it is alleged by an aggrieved party that there is an error in any order, requirement, decision, or determination made by, or failure to act by, the Planning Board in the administration of this Ordinance; and to hear and decide administrative appeals on a de novo basis where it is alleged by an aggrieved party that there is an error in any order, requirement, decision or determination made by, or failure to act by, the Code Enforcement Officer in his or her review of and action on a permit application under this Ordinance. Any order, requirement, decision or determination made, or failure to act, in the enforcement of this ordinance is not appealable to the Board of Appeals.
 - (b) Variance Appeals: To authorize variances upon appeal, within the limitations set forth in this Ordinance.
- (2) Variance Appeals. Variances may be granted only under the following conditions:
 - (a) Variances may be granted only from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage, and setback requirements.
 - (b) Variances shall not be granted for establishment of any uses otherwise prohibited by this Ordinance.
 - (c) The Board shall not grant a variance unless it finds that:
 - (i) The proposed structure or use would meet the provisions of Section 15 except for the specific provision which has created the non-conformity and from which relief is sought; and
 - (ii) The strict application of the terms of this Ordinance would result in undue hardship. The term "undue hardship" shall mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
 - (d) Notwithstanding Section 16(H)(2)(c)(ii) above, the Board of Appeals may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall

restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure.

- (e) The Board of Appeals shall limit any variances granted as strictly as possible in order to ensure conformance with the purposes and provisions of this Ordinance to the greatest extent possible, and in doing so may impose such conditions to a variance as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
- (f) A copy of each variance request, including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commissioner of the Department of Environmental Protection at least twenty (20) days prior to action by the Board of Appeals. Any comments received from the Commissioner prior to the action by the Board of Appeals shall be made part of the record and shall be taken into consideration by the Board of Appeals.

(3) Administrative Appeals

When the Board of Appeals reviews a decision of the Code Enforcement Officer the Board of Appeals shall hold a "de novo" hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a "de novo" capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

When the Board of Appeals hears a decision of the Planning Board, it shall hold an appellate hearing, and may reverse the decision of the Planning Board only upon finding that the decision was contrary to specific provisions of the Ordinance or contrary to the facts presented to the Planning Board. The Board of Appeals may only review the record of the proceedings before the Planning Board. The Board Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider written or oral arguments. If the Board of Appeals determines that the record of the Planning Board proceedings are inadequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding.

(4) Appeal Procedure

(a) Making an Appeal

- (i) An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board, except for enforcement-related matters as described in Section 16(H)(1)(a) above. Such an appeal shall be taken within thirty (30) days of the date of the official, written decision appealed from, and not otherwise, except that the Board, upon a showing of good cause, may waive the thirty (30) day requirement.

- (ii) Applications for appeals shall be made by filing with the Board of Appeals a written notice of appeal which includes:
 - a. A concise written statement indicating what relief is requested and why the appeal or variance should be granted.
 - b. A sketch drawn to scale showing lot lines, location of existing buildings and structures and other physical features of the lot pertinent to the relief sought.
- (iii) Upon receiving an application for an administrative appeal or a variance, the Code Enforcement Officer or Planning Board, as appropriate, shall transmit to the Board of Appeals all of the papers constituting the record of the decision appealed from.
- (iv) The Board of Appeals shall hold a public hearing on an administrative appeal or a request for a variance within thirty-five (35) days of its receipt of a complete written application, unless this time period is extended by the parties.

(b) Decision by Board of Appeals

- (i) A majority of the full voting membership of the Board shall constitute a quorum for the purpose of deciding an appeal.
 - (ii) The person filing the appeal shall have the burden of proof.
 - (iii) The Board shall decide all administrative appeals and variance appeals within thirty five (35) days after the close of the hearing, and shall issue a written decision on all appeals.
 - (iv) The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant and to the Department of Environmental Protection within seven (7) days of the Board's decision. Copies of written decisions of the Board of Appeals shall be given to the Planning Board, Code Enforcement Officer, and the municipal officers.
- (5) Appeal to Superior Court. Except as provided by 30-A M.R.S.A. section 2691(3)(F), any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of any decision of the Board of Appeals.
- (6) Reconsideration. In accordance with 30-A M.R.S.A. section 2691(3)(F), the Board of Appeals may reconsider any decision within forty-five (45) days of its prior decision. A request to the Board to reconsider a decision must be filed within ten (10) days of the decision that is being reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within forty-five (45) days of the date of the vote on the original decision. Reconsideration of a decision shall require a positive vote of the majority of the Board members originally voting on the decision, and proper notification to the landowner, petitioner, planning board, code enforcement officer, and other parties of interest, including abutters and

those who testified at the original hearing(s). The Board may conduct additional hearings and receive additional evidence and testimony.

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

I. Enforcement

(1) Nuisances. Any violation of this Ordinance shall be deemed to be a nuisance.

(2) Code Enforcement Officer

- (a) It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he or she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and be maintained as a permanent record.
 - (b) The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to permit approvals. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
 - (c) The Code Enforcement Officer shall keep a complete record of all essential transactions of the office, including applications submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected. On a biennial basis, a summary of this record shall be submitted to the Director of the Bureau of Land and Water Quality within the Department of Environmental Protection.
- (3) Legal Actions. When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality. The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use will result in a threat or hazard to public health and safety or will result in substantial environmental damage.
- (4) Fines. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A, M.R.S.A. section 4452 which includes fines of not less than \$100 nor more than \$2500 per violation for each day that the violation continues. In a resource protection district the maximum penalty is increased to \$5000 (38 M.R.S.A. section 4452).

17. Definitions.

Accessory structure or use - a use or structure which is incidental and subordinate to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot. A deck or similar extension of the principal structure or a garage attached to the principal structure by a roof or a common wall is considered part of the principal structure.

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

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

Aquaculture - the growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species.

Basal Area - the area of cross-section of a tree stem at 4 1/2 feet above ground level and inclusive of bark.

Basement - any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

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

Bureau – State of Maine Department of Conservation's Bureau of Forestry

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

Canopy – the more or less continuous cover formed by tree crowns in a wooded area.

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

Commercial use - the use of lands, buildings, or structures, other than a "home occupation," defined below, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

Cross-sectional area – the cross-sectional area of a stream or tributary stream channel is determined by multiplying the stream or tributary stream channel width by the average stream or tributary stream channel depth. The stream or tributary stream channel width is the straight line distance from the normal high-water line on one side of the channel to the normal high-water line on the opposite side of the channel. The average stream or tributary stream channel depth is the average of the vertical distances from a straight line between the normal high-water lines of the stream or tributary stream channel to the bottom of the channel.

DBH – the diameter of a standing tree measured 4.5 feet from ground level.

Development – a change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other construction not naturally occurring.

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

Disability - any disability, infirmity, malformation, disfigurement, congenital defect or mental condition caused by bodily injury, accident, disease, birth defect, environmental conditions or illness; and also includes the physical or mental condition of a person which constitutes a substantial handicap as determined by a physician or in the case of mental handicap, by a psychiatrist or psychologist, as well as any other health or sensory impairment which requires special education, vocational rehabilitation or related services.

Disruption of shoreline integrity - the alteration of the physical shape, properties, or condition of a shoreline at any location by timber harvesting and related activities. A shoreline where shoreline integrity has been disrupted is recognized by compacted, scarified and/or rutted soil, an abnormal channel or shoreline cross-section, and in the case of flowing waters, a profile and character altered from natural conditions.

Driveway - a vehicular access-way less than five hundred (500) feet in length serving two single-family dwellings or one two-family dwelling, or less.

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

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

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

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

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

Floodway - the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

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

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

Forested wetland - a freshwater wetland dominated by woody vegetation that is six (6) meters tall (approximately twenty (20) feet) or taller.

Forest Stand - a contiguous group of trees sufficiently uniform in age class distribution, composition, and structure, and growing on a site of sufficiently uniform quality, to be a distinguishable unit.

Foundation - the supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frostwalls, or other base consisting of concrete, block, brick or similar material.

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

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

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

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

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

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

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

Harvest Area - the area where timber harvesting and related activities, including the cutting of trees, skidding, yarding, and associated road construction take place. The area affected by a harvest encompasses the area within the outer boundaries of these activities, excepting unharvested areas greater than 10 acres within the area affected by a harvest.

Height of a structure - the vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.

Home occupation - an occupation or profession which is customarily conducted on or in a residential structure or property and which is 1) clearly incidental to and compatible with the residential use of the property and surrounding residential uses; and 2) which employs no more than two (2) persons other than family members residing in the home.

Increase in nonconformity of a structure - any change in a structure or property which causes further deviation from the dimensional standard(s) creating the nonconformity such as, but not limited to, reduction in water body, tributary stream or wetland setback distance, increase in lot coverage, or

increase in height of a structure. Property changes or structure expansions which either meet the dimensional standard or which cause no further increase in the linear extent of nonconformance of the existing structure shall not be considered to increase nonconformity. For example, there is no increase in nonconformity with the setback requirement for water bodies, wetlands, or tributary streams if the expansion extends no further into the required setback area than does any portion of the existing nonconforming structure. Hence, a structure may be expanded laterally provided that the expansion extends no closer to the water body, tributary stream, or wetland than the closest portion of the existing structure from that water body, tributary stream, or wetland. Included in this allowance are expansions which in-fill irregularly shaped structures.

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

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

Institutional – a non-profit or quasi-public use, or institution such as a church, library, public or private school, hospital, or municipally owned or operated building, structure or land used for public purposes.

Land Management Road - a route or track consisting of a bed of exposed mineral soil, gravel, or other surfacing materials constructed for, or created by, the passage of motorized vehicles and used primarily for timber harvesting and related activities, including associated log yards, but not including skid trails or skid roads.

Licensed Forester - a forester licensed under 32 M.R.S.A. Chapter 76.

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

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

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

Mineral exploration - hand sampling, test boring, or other methods of determining the nature or extent of mineral resources which create minimal disturbance to the land and which include reasonable measures to restore the land to its original condition.

Mineral extraction - any operation within any twelve (12) month period which removes more than one hundred (100) cubic yards of soil, topsoil, loam, sand, gravel, clay, rock, peat, or other like material from its natural location and to transport the product removed, away from the extraction site.

Minimum lot width - the closest distance between the side lot lines of a lot. When only two lot lines extend into the shoreland zone, both lot lines shall be considered to be side lot lines.

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

Native – indigenous to the local forests.

Non-conforming condition – non-conforming lot, structure or use which is allowed solely because it was in lawful existence at the time this Ordinance or subsequent amendment took effect.

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

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

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

Normal high-water line (non-tidal waters) - that line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond.

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

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high-water line or within a wetland.

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

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

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

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

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

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

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

Recreational facility - a place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities, excluding boat launching facilities.

Recreational vehicle - a vehicle or an attachment to a vehicle designed to be towed, and designed for temporary sleeping or living quarters for one or more persons, and which may include a pick-up camper, travel trailer, tent trailer, camp trailer, and motor home. In order to be considered as a vehicle and not as a structure, the unit must remain with its tires on the ground, and must be registered with the State Division of Motor Vehicles.

Replacement system - a system intended to replace: 1.) an existing system which is either malfunctioning or being upgraded with no significant change of design flow or use of the structure, or 2.) any existing overboard wastewater discharge.

Residential dwelling unit - a room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

Residual basal area - the average of the basal area of trees remaining on a harvested site.

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

Residual Stand - a stand of trees remaining in the forest following timber harvesting and related activities

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

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

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

Salt meadow - Areas of a coastal wetland that support salt tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common threesquare occurs in fresher areas.

Service drop - any utility line extension which does not cross or run beneath any portion of a water body provided that:

1. in the case of electric service
 - a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and
 - b. the total length of the extension is less than one thousand (1,000) feet.
2. in the case of telephone service
 - a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
 - b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length.

Setback - the nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area.

Shore frontage - the length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone - the land area located within two hundred and fifty (250) feet, horizontal distance, of the normal high-water line of any great pond or river; within 250 feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of a freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high-water line of a stream.

Shoreline – the normal high-water line, or upland edge of a freshwater or coastal wetland.

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

Skid Road or Skid Trail - a route repeatedly used by forwarding machinery or animal to haul or drag forest products from the stump to the yard or landing, the construction of which requires minimal excavation.

Slash - the residue, e.g., treetops and branches, left on the ground after a timber harvest.

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

Structure - anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, and poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, such as decks, patios, and satellite dishes.

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

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

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

Tidal waters – all waters affected by tidal action during the maximum spring tide.

Timber harvesting - the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Section 15 (P), *Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting*.

Timber harvesting and related activities - timber harvesting, the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Tributary stream – means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. “Tributary stream” does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

This definition does not include the term "stream" as defined elsewhere in this Ordinance, and only applies to that portion of the tributary stream located within the shoreland zone of the receiving water body or wetland.

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

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

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

Volume of a structure - the volume of all portions of a structure enclosed by roof and fixed exterior walls as measured from the exterior faces of these walls and roof.

Water body - any great pond, river or stream.

Water crossing - any project extending from one bank to the opposite bank of a river, stream, tributary stream, or wetland whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, water lines, sewer lines, and cables as well as maintenance work on these crossings. This definition includes crossings for timber harvesting equipment and related activities.

Wetland - a freshwater or coastal wetland.

Windfirm - the ability of a forest stand to withstand strong winds and resist windthrow, wind rocking, and major breakage.

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

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TOWN OF EDDINGTON

SUBDIVISION ORDINANCE

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Chapter 1: General Provisions

101 Title:

This Ordinance shall be known as the Town of Eddington Subdivision Ordinance and will be referred to as “this Ordinance”.

102 Authority:

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

103 Purpose:

The purposes of this Ordinance are:

- To provide for an expeditious and efficient process for the review of proposed subdivisions.
- To apply the approval criteria of the State Subdivision Law, found in Title 30 -A, M.R.S.A. Section 4404.
- To preserve and enhance the rural character of the community, in conformity with the comprehensive plan.
- To assure the safety, health, and welfare of the people of the Town of Eddington.
- To protect the natural resources of the Town of Eddington.
- To assure that a minimal level of services and facilities are available to the residents of new subdivisions, and that lots in subdivisions can support the proposed uses and structures.
- To promote the development of an economically sound and stable community.

104 Applicability:

The provisions of this Ordinance shall apply to all development and conversions considered a subdivision as defined by Title 30 -A, M.R.S.A Section 4401, and Mobile Home Parks, RV Parks, Campgrounds, and Multiple Family projects consisting of more than 3 dwellings.

105 Availability:

A copy of this Ordinance shall be on file with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

106 Validity and Severability:

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

107 Conflict with Other Ordinances:

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity for compliance with any other rule, regulation, by-law, permit or provision of law. Whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this

Ordinance, or of any other ordinance, regulation or statute, the provision imposing the greater restriction upon the use of the land, buildings or structures shall control.

108 Amendments:

The procedures for amending this Ordinance shall comply with Chapter 1 Section 108 of the Zoning Ordinance.

109 Effective Date:

The effective date of this Ordinance is

Chapter 2: Review Criteria

201 Review Criteria:

The Planning Board shall consider a subdivision application based on the following criteria and before granting approval must be convinced by a preponderance of the evidence:

201.1 The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

- The elevation of the land above sea level and its relation to the floodplain,
- The nature of the soils and subsoils and their ability to adequately support waste disposal,
- The slope of the land and its effect upon effluents,
- The availability of streams for disposal of effluents, and
- The applicable state and local health and water resource rules and regulations.

The Board may consider other factors and evidence pertinent to the criteria.

201.2 The proposed subdivision has sufficient water available for the reasonable needs of the subdivision including, without limitation, fire suppression and control.

201.3 The proposed subdivision will not cause an unreasonable burden on any existing water supply, if one is to be used.

201.4 The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

201.5 The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed, and if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by M.R.S.A Title 23, Section 754, the Department of Transportation has provided documentation indicating that driveways or entrances conform to M.R.S.A. Title 23, Section 704 and any rules adopted under that section.

201.6 The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.

201.7 The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if town services are used.

201.8 The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline.

201.9 The proposed subdivision conforms to all the applicable standards and requirements of this Ordinance, the comprehensive plan, and other local ordinances. In making this determination, the Planning Board may interpret these ordinances and plans.

201.10 The Applicant has adequate financial and technical capacity to meet all the review criteria, standards, and requirements contained in this Ordinance.

201.11 Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in M.R.S.A. Title 38, Chapter 3, Subchapter 1, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

201.12 The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

201.13 Based on Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundary within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with the lowest floor, including the basement, at least one foot above the 100-year flood elevation.

201.14 All wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. All wetlands shall be preserved to the greatest extent practicable.

201.15 All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

201.16 Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. All rivers, streams or brooks shall be protected from any adverse development impacts. For the purposes of this chapter river, stream, or brook has the same meaning as in M.R.S.A. Title 39, Section 480-B, subsection 9.

201.17 The proposed subdivision will provide for adequate storm water management.

201.18 If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or wetland as these features are defined in M.R.S.A. Title 38, Section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.

201.19 The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great ponds phosphorus concentration during the construction phase and life of the proposed subdivision.

201.20 For any subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

201.21 Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to M.R.S.A. Title 12, Section 8869, Subsection 14. If a violation of the rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Maine Forest Service to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to M.R.S.A. Title 32, Chapter 76. If the Planning Board requests technical assistance from the Maine Forest Service, the Forest Service shall respond within 5 working days regarding its ability to provide assistance. If the Forest Service agrees to provide assistance, it shall make a finding and determination as whether a rule violation has occurred. The Forest Service shall provide a written copy of its finding and determination to the Planning Board within 30 days of receipt of the Planning Board request. If the Forest Service notifies the Planning Board that the Service will not provide assistance, the Planning Board may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this chapter “ Liquidation Harvesting” has the same meaning as in M.R.S.A. Title 12, Section 8868, subsection and “parcel” means a contiguous area within the town owned by one person or a group of persons in common or joint ownership.

Chapter 3: Administration and General Procedures:

301 Administration:

301.1 The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.

301.2 The Planning Board shall provide the Code Enforcement Officer and the Selectmen a copy of its decision on a subdivision application including all application materials.

302 Procedures:

302.1 The Planning Board shall determine if the subdivision application is complete before it schedules a public hearing or meeting and begins a review of the application.

302.2 After review of a complete application, the Planning Board shall determine whether the application meets the Review Criteria contained in Chapter 2 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, deny the application, or approve the application with conditions.

302.3 If in its findings, the Planning Board determines that the application may not meet the review criteria, and that additional actions by the applicant will be sufficient to meet them, it may require such actions, as conditions of approval. The conditions may set forth requirements in addition to those set forth in the Ordinance only when the Planning Board finds it necessary to further the purposes of this Ordinance. All conditions approved by the Planning Board shall be listed along with the reasons for these conditions in the Planning Board's decision and on the final subdivision plan.

302.4 The Planning Board shall list any waivers approved by the Board on its decision form, and, on the final subdivision plan, and the reasons for such approval.

302.5 Burden of Proof: The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable review criteria and standards contained in this Ordinance.

302.6 Additional Studies: The Planning Board may hire a consultant(s) or require additional studies be performed to review the entire, or portions of the subdivision application. The cost to perform additional studies or hire a consultant shall be borne by the applicant. Whenever the Planning Board decides to undertake additional studies or hire a consultant, the Planning Board shall require the applicant to deposit with the Town the estimated cost of any consultant or additional study which shall be placed in an escrow account. The Town shall pay for the services rendered and reimburse the applicant, if funds remain after payments are completed. The applicant shall place additional funds into the escrow account as required to meet expenses.

302.7 Rights Not Vested: The submittal of a sketch plan or a preliminary plan to the Planning Board to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of M.R.S.A. Title 1, Section 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

302.8 Site Inspection:

302.8.1 The Planning Board may vote to schedule an on-site inspection of the proposed project. The Planning Board shall schedule the date and time of the site inspection at the sketch plan meeting or at another time. The Planning Board shall post the date, time and place of the site inspection at the Town Office.

302.8.2 The Planning Board may vote to reschedule the site visit and delay its review of the subdivision application whenever it finds that snow cover prohibits viewing land features of the proposed site.

302.8.3 The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection.

302.9 Waivers:

302.9.1 The Planning Board may vote to waive any of the review criteria and/or ordinance performance standards when it finds one of the following:

302.9.1.1 One or more of the review criteria and /or ordinance performance standards are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, or unique features of the proposal.

302.9.1.2 The applicant has proposed an alternative design that meets or exceeds the requirements set forth in the performance standards.

302.9.2 The applicant shall submit information and materials that support the waiver request with the application.

302.9.3 The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the request and if it meets the criteria for a waiver, shall approve the request. If the Planning Board finds that the request does not meet the waiver criteria, the Board shall deny the request. The applicant shall amend the application as required if the waiver is not approved by the Board. The Planning Board may vote to suspend review of the application until the applicant provides any information necessary because of not obtaining the waiver. In no case shall the

Planning Board make a final decision upon the application until the applicant supplies any additional information to the satisfaction of the Board.

302.10 Subdivision Review Process: All subdivision applicants shall be required to follow a three-tier review process as follows:

- Sketch Plan Review
- Preliminary Plan Review
- Final Plan Review

The Planning Board may vote to allow a subdivision which does not contain any new roads or a woodlot subdivision to submit a final plan for review directly after the Sketch Plan Review meeting. The Planning Board shall make this decision after reviewing the sketch plan proposal.

302.11 Revisions to Approved Plans:

302.11.1 An application for a revision to a previously approved plan shall be submitted to the Planning Board at least 20 days prior to a scheduled meeting of the Planning Board. If the revision involves a modification to a condition imposed by the Planning Board, the addition of additional units, the addition of new lots, alteration of existing lots, or an expansion of the subdivision, then the procedure for a new application shall be followed. If the revision only involves minor modifications to the plan, or a request to extend the public improvement completion deadline, the Planning Board may consider the revision request at the meeting. The Planning Board may vote to hold a public hearing on the proposed revision.

302.11.2 The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be revised or that are adversely impacted by the proposed revision.

302.11.3 The applicant shall submit a copy of the approved plans and 9 copies of the revised portions of the plans. The application shall include enough supporting data to allow the Planning Board to make a decision that the proposed revision meets the review criteria.

302.11.4 The Planning Board shall vote to approve the revision, deny the revision or approve the revision with conditions. The Planning Board may vote to require that additional information be submitted to ensure that the review criteria are met.

302.12 As Built-Plans: Upon Completion of all the public improvements contained in the subdivision, the applicant shall submit a mylar, and a digital copy if available, of the as-built plans to the Planning Board within 90 days.

302.13 Appeals to Superior Court: An aggrieved party may appeal any final decision of the Planning Board under this Ordinance to Superior Court, within 30 days of the date the Planning Board issues a written order of its decision.

302.14 Public Hearing Requirements:

302.14.1 The Planning Board may hold a public hearing on all preliminary and final plan applications to receive public comment and information concerning the application.

302.14.2 The public hearing notice shall be made as follows:

302.14.2.1 The Planning Board shall hold a public hearing within 35 days after determining that the application is complete. A notice of the date, time and place of the public hearing shall be published at least two times in a newspaper having general circulation in the municipality, and on the town website. The date of the first publication shall be at least 7 days before the hearing.

A notice shall be mailed by first class mail to all property abutters, at least 7 days prior to the public hearing. The Planning Board shall maintain a list of all property abutters and record the date the notice was mailed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.

302.14.2.2 The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

302.15 Joint Meetings: If any portion of a proposed subdivision crosses municipal boundaries, the Planning Board shall follow the notice, meeting, and review requirements specified in Title 30-A, M.R.S.A., Sections 4401- 4407.

302.16 Performance Guarantee: A performance guarantee shall be required for all public improvements proposed for the subdivision and shall comply with the applicable requirements in Chapter 7 of the Zoning Ordinance. No application shall be finally approved unless any performance guarantees required by this section have been furnished and accepted as satisfactory by the town.

302.17 Inspection Requirements:

302.17.1 The Code Enforcement Officer shall be responsible for conducting and/or coordinating all inspections with other municipal officials. The following municipal officials shall perform the following inspections:

302.17.2 The Road Commissioner shall inspect all roads including roads to be considered for public acceptance and private roads and associated drainage systems.
(All roads shall also be inspected by a professional engineer as per the road performance standards contained in this Ordinance)

302.17.3 The Local Plumbing Inspector shall inspect the installation of all subsurface wastewater treatment systems.

302.17.4 The Code Enforcement Officer shall inspect all erosion control measures, stormwater management features, and all other site features.

302.17.5 The applicant shall be responsible for scheduling all inspections with the Code Enforcement Officer. The Code Enforcement Officer and all other inspection officials shall keep a record of all inspections and all deficiencies. It shall be the responsibility of the Code Enforcement Officer to notify the applicant in writing that a deficiency exists and the steps necessary to remedy the situation. The Code Enforcement Officer shall notify the Planning Board and the Selectmen whenever the applicant fails to remedy a deficiency. Upon completion of the subdivision and/or consideration of release of the performance guarantee, all inspection reports shall be made available to the Planning Board and the Selectmen.

303 Wood Lot Subdivisions:

303.1 A Subdivision of land creating lots for the purpose of management and harvesting of wood products. A woodlot subdivision must meet all of the following standards:

303.1.1 All lots shall be 10 acres or more in size and shall have frontage on a woodlot road or a street.

303.1.2 No building, either temporary or permanent shall be allowed on any lot in a woodlot subdivision.

303.1.3 Any road built in a woodlot subdivision shall have a 60 ft. right-of-way and shall be laid out such that it can be upgraded to a street at some time in the future if it becomes appropriate to do so.

303.1.4 No subsurface sewage disposal system or other form of sewage disposal system may be located on any lot in the subdivision.

303.1.5 All contiguous land owned by the applicant must be shown on the plan. If applicant proposes to include less than all of its contiguous land in the wood lot subdivision, the plan shall specifically identify the excluded land on the plan.

303.2 In the case of approval of a woodlot subdivision, the Final Plan to be duly signed and recorded must contain the following conditions of approval: "This is approved as a woodlot subdivision. No permanent or temporary building or structure may be erected on any lot in this subdivision. No subsurface sewage disposal system or other form of sewage disposal system may be located on any lot in this subdivision. The subdivision is approved for the management and harvesting of wood products only."

303.3 No lots in an approved woodlot subdivision may be sold or offered for sale for purposes other than woodlot management without further approval of the Planning Board, subject to such additional conditions as the Planning Board may require under this ordinance.

304 Sketch Plan Review:

304.1 Purpose:

The purpose of the sketch plan submittal is for the applicant to present general information regarding the proposed subdivision to the Planning Board and to receive the Planning Board's comments prior to the expenditure of substantial sums of money for developing the subdivision plan.

304.2 Procedure:

304.2.1 The applicant shall submit a complete sketch plan application to the Planning Board at least 20 days before a scheduled meeting of the Planning Board. The sketch plan shall depict all contiguous land owned by the applicant, even if the application is for a subdivision of less than all of the applicant's land.

304.2.2 The applicant shall present the sketch plan application to the Planning Board and make a verbal presentation regarding the site and the proposed subdivision.

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

304.2.4 The Planning Board shall determine the contour intervals to be shown on the plan.

304.2.5 The Planning Board shall decide if the proposed subdivision is eligible to submit a final plan after sketch plan review as per section 302.10.1.

304.2.6 The Planning Board shall decide on the applicant's request to develop the subdivision in accordance with the open space design standards

304.3 Submissions:

304.3.1 The sketch plan shall show in simple sketch form the proposed layout of roads, lots, buildings, and other features in relation to existing site conditions. The sketch plan does not have to be an engineered plan and may be a freehanded penciled sketch.

304.3.2 The sketch plan shall be submitted on the application forms provided by the Planning Board and include the following:

304.3.2.1 A copy of the Tax Assessors map of the site and surrounding area, including all contiguous land owned by the applicant.

304.3.2.2 A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, and any other contiguous land of the applicant.

305 Preliminary Plan Review:

305.1 Purpose:

The purpose of the preliminary plan review is to review the proposed subdivision design for compliance with the review criteria and to determine if additional studies or professional review is required before the final version of the subdivision plan is developed.

305.2 Procedure:

305.2.1 The applicant shall, at least 20 days prior to a scheduled meeting of the Planning Board, submit a complete preliminary plan application to the Town Manager. The applicant shall be issued a dated receipt and the preliminary plan application shall be placed on the Planning Board's agenda to be reviewed for a complete application.

305.2.2 The application shall consist of 9 complete copies including all maps and related attachments. The Planning Board shall receive 7 copies; the Code Enforcement Officer shall receive one copy; and, one shall be placed in the Town Office for public review.

305.2.3 As soon as possible after the receipt of the preliminary plan, the Town shall notify by first class mail all abutters to the proposed subdivision that an application for a subdivision has been submitted to the Planning Board, specifying the location of the proposed subdivision and including a general description of the project, including all contiguous land owned by the applicant. The notice shall also indicate that a copy of the application is available for public review at the Town Office. The Planning Board shall maintain a list of all abutters notified by first class mail, specifying the date the notice was mailed.

305.2.4 Within 35 days of the receipt of the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the board shall notify the applicant of the specific material needed to complete the application.

305.2.5 The Planning Board shall hold a public hearing or meeting within 35 days of determining that it has received a complete application.

305.2.6 Within 35 days of the public hearing or meeting, or within another time as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application. The Planning Board may vote to delay its review if it cannot conduct a site visit due to snow cover.

305.2.7 Upon approval of the preliminary plan, the applicant is eligible to submit a final plan to the Planning Board for consideration. The approval of the preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the concept of the preliminary plan as a guide to preparation of the final plan. The final plan shall be submitted for consideration upon

fulfillment of the requirements of this Ordinance and conditions of preliminary approval, if any.

305.3 Preliminary Plan Submissions:

305.3.1 The applicant is responsible for supplying all the necessary information to show that the proposed subdivision complies with the review criteria, and requirements and performance standards contained in this Ordinance. The preliminary plan submissions shall consist of the following:

- a. A receipt from the Town indicating that the application fee has been paid.
- b. A preliminary plan application form and all required attachments and maps.
- c. Waiver request form, if applicable.
- d. A location map, drawn at an appropriate scale to show the relationship of the proposed subdivision to adjacent properties. The map shall show the following:
 - (1) Existing subdivisions in the proximity of the proposed subdivision.
 - (2) Locations and names of existing and proposed roads.
 - (3) Boundaries and designations of all shoreland zoning and other land use districts.
 - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if not included in the subdivision proposal.
- e. The following general information:
 - (1) Name and address of the applicant and applicant's agent.
 - (2) The applicant shall provide proof of right, title or interest in the property.
 - (3) A copy of all existing and proposed, deed restrictions, rights-of-way, or other encumbrances affecting the property.
 - (4) The book and page and tax map and lot information of the property.
 - (5) The names of all property owners abutting the property.
 - (6) Acreage of the proposed subdivision, acreage of roads, and acreage of any land not included in the subdivision.
- f. A subdivision plan consisting of one or more maps drawn to a scale of not more than 100 feet to the inch. The plan shall show the following:
 - (1) Name of the subdivision.
 - (2) Number of lots.
 - (3) Date, north point, graphic scale.
 - (4) Proposed lot lines with dimensions.
 - (5) A survey of the perimeter of the entire tract, giving complete descriptive data by bearing and distances, made and certified by a Registered Land Surveyor. The corner of the tract shall be located on the ground and marked by permanent markers. The plan shall indicate the type of permanent marker proposed to be set or found at each lot corner.
 - (6) Contour intervals as specified by the Planning Board.
 - (7) The location of all wetlands regardless of size as determined by an onsite wetland delineation.
 - (8) The location of all farmland located within the proposed subdivision.

- (9) The location of all rivers, streams, brooks and ponds within or adjacent to the subdivision.
 - (10) The location of all slopes in excess of 10% slope.
 - (11) The number of acres within the subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing features.
 - (12) The location of any significant sand and gravel aquifers,
 - (13) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the Town's most recent FIRM Map.
 - (14) The boundaries of all shoreland zoning districts.
 - (15) The location and boundaries of any significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife.
 - (16) The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission.
 - (17) The location of all scenic areas and rare and endangered plants as identified on the Beginning with Habitat Maps for the Town of Eddington.
 - (18) The location of all subsurface wastewater disposal system test pits or borings and test data and appropriate documentation.
 - (19) The location of all existing and proposed wells and appropriate documentation.
 - (20) All erosion control features proposed for the site.
 - (21) All stormwater control features proposed for the site.
 - (22) All parcels of land proposed to be owned or held in common or joint ownership by the subdivision or individual lot owners. All land proposed to be offered for public acceptance to the Town. Homeownership association agreement covering all improvements to be owned privately.
 - (23) Phosphorus control measures, if the subdivision is located within the direct watershed of a great pond.
 - (24) Road plans and specifications, and appropriate documentation.
 - (25) Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
 - (26) The type and location of any proposed fire control features, letter from the Fire Chief, and any other appropriate documentation.
- g. A statement indicating how the solid waste from the subdivision will be handled.
 - h. Documentation indicating that the applicant has the financial and technical capacity to meet the requirements of this Ordinance.
 - i. Any other data necessary in order to meet the requirements of this Ordinance.
 - j. Indicate how all roads and other public improvements will be maintained until the improvements are dedicated to the Town or for private roads and improvements, how they will maintain them over their lifespan.
 - k. Documentation from the Department of Transportation indicating that any proposed driveways or entrances onto state or state aid highways conform to MRSA Title 23, section 704.

- l. Applicable documentation from the Maine Forest Service or a licensed forester indicating that the Review Criteria 201.20 has been met.
- m. Submission of information as required in Section 406.
- n. Submission of an outline of information as required in Section 302.16.

306 Final Plan Review:

306.1 Purpose:

The purpose of the final plan review is for the Planning Board to determine whether all the changes required after the preliminary review have been completed and the proposed subdivision meets all the review criteria contain in this Ordinance.

306.2 Procedure:

306.2.1 The applicant shall, at least 20 days prior to a scheduled meeting of the Planning Board, submit a complete final plan application to the Town Manager. The applicant shall be issued a dated receipt and the final plan application shall be placed on the Planning Board's agenda to review for a complete application.

306.2.2 The applicant shall submit 9 complete copies of the final plan application to the Planning Board. The application shall also submit 2 stable-based transparencies and 3 paper copies of the subdivision plan for signature and filing to the register of deeds. The Planning Board shall receive 1 original transparency, and two paper copies.

306.2.3 Within 35 days of the receipt of the final plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific material needed to complete the application.

306.2.4 The Planning Board shall schedule a public hearing or a meeting to review the final plan within 35 days of determining that it has received a complete application.

306.2.5 Within 35 days of the public hearing or meeting, or within another time as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.

306.2.6 Upon voting to approve the final plan, the Planning Board shall sign the 2 stable - based transparencies. The Planning Board shall retain one copy and the other shall be provided to the applicant, after expiration of the appeal period set forth in Section 302.12. The applicant shall file the approved final subdivision plan with the Register of Deeds, within 90 days of the date upon which the plan is approved. Failure to file the plan with the Register of Deeds, within 90 days, shall make the plan null and void. Final Plans not filed in the appropriate time shall be re-submitted to the Board according to the requirements of Section 305 of this Ordinance.

The Applicant shall provide the Town proof that the Subdivision Plan was filed with the Register of Deeds, and shall submit to the Tax Assessors a copy of the subdivision plan showing the proposed lots, which corresponds to the scale of the Town Tax map showing the subdivision.

306.3 Final Plan Submissions:

306.3.1 The applicant is responsible for supplying all the necessary information to show that the proposed subdivision complies with the review criteria and requirements and performance standards contained in this Ordinance. The final plan submissions shall consist of the following:

- a. A receipt from the Town indicating that the application fee has been paid.
- b. A final plan application form and all required attachments and maps.
- c. All the submission materials required for a preliminary plan.
- d. All conditions and modifications approved by the Planning Board for the preliminary plan shall be contained on the final plan.
- e. All waivers approved by the Planning Board shall be shown on the final plan.
- f. All additional studies and/or materials required by the Planning Board, as applicable.
- g. A signature block shall be provided on the final plan.
- h. A performance guarantee, if applicable.
- i. The location and type of all permanent markers set at all lot corners.
- j. The final plan submission shall contain the following statement: All subdivision roads shall be constructed or improved to meet design standards contained in Chapter 9 of the Zoning Ordinance. Any subdivision road shall be considered a private way until such time as it may be accepted as a public way by the Town of Eddington. This statement shall be noted on the mylar submitted for recording at the Penobscot Registry of Deeds. Also noted on the mylar should be Section 501.7 verbatim.
- k. Written copies of any documents of land dedication, and written evidence that the Board of Selectmen is satisfied with the legal sufficiency of any documents accomplishing such land dedication.
- l. Any conditions placed on the final plan by the Planning Board shall be clearly listed on the plan. Planning Board imposed, conditions shall be listed separately from any conditions or restrictions placed on the subdivision by the applicant.
- m. Proof that all other applicable State and Federal permits have been obtained.

Chapter 4: Performance Standards:

The performance standards contained in this section shall apply to all subdivision proposals in the Town of Eddington.

401 General Lot Requirements:

401.1. Subdivisions shall conform to the Town's minimum lot requirements. Subdivisions designed according to the Open Space Design Option may modify the minimum lot requirements according to the standards in the Open Space performance standards.

401.2 Land in the following areas shall not be used to calculate the required minimum lot size:

401.2.1 Rivers; streams; brooks; proposed stormwater drainage features; resource protection areas as defined in the Town's Shoreland Zoning Ordinance; areas within the floodway as defined in the Town's Floodplain Management Ordinance; and, areas within public and private rights-of-way.

401.2.2 Wetlands, except that lots 2 acres or larger may contain no more than 33% of their area in wetlands.

402 Monuments:

402.1 Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:

402.1.1 At both sides of all road intersections and points of curvature on both sides of the road, but no farther than 750 feet apart along road lines without intersections or curves.

402.1.2 At all other subdivision boundary corners and angle points plus lot boundary corners and angle points.

402.1.3 If lot lines are not 90 degrees to the road, then monuments shall also be set 100 feet from the road at each sideline.

403 Environmental Standards:

All subdivisions shall conform to the environmental standards contained in the Chapter 8 of the Zoning Ordinance.

404 Fire Protection:

404.1 The subdivision shall be designed to provide the Town of Eddington Fire Department unrestricted access to all developed areas within the subdivision. An adequate supply of

water for fire suppression shall be available to serve the development. The applicant shall review the proposed subdivision with the Fire Chief and shall obtain a written statement from the Fire Chief approving the plans fire protection measures. This statement shall be submitted with the preliminary plan application.

404.2 The Fire Chief in making his/her determination that adequate provisions are made for fire protection shall consider the following:

404.2.1 The road is adequate for the passage of fire equipment.

404.2.2 An adequate water supply is available near or within the subdivision to serve the density of the development.

404.3 The Fire Chief shall approve the fire protection measures proposed for the subdivision or shall make specific recommendations to improve the fire protection measures. In making recommendations, the Fire Chief may recommend the installation of fire ponds, dry hydrants or other similar features.

405 Ground Water:

405.1 Any development proposed within a Sand and Gravel Aquifer as identified by the State of Maine Department of Conservation, Significant Sand and Gravel Aquifer Maps shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer.

405.2 The Planning Board may require the applicant to provide a plan developed by a hydrologist which shows that the proposed development will not have an adverse impact upon the aquifer. The Planning Board, in making the determination that a plan is required, shall consider the density of the development, and existing conditions or problems within the area.

406 Financial and Technical Capacity:

406.1 The applicant shall submit evidence that he/she has adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:

406.1.1 A list of all technical and professional staff involved with the proposal and preparation of the application including their qualifications and experience with projects of similar size and scale.

406.1.2 A list of all persons with inspection and oversight responsibilities for the development and if available, the persons selected to construct the project, including their qualifications and experience with projects of similar size and scale.

406.1.3 A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the time period specified by the applicant, or such other specific evidence of financial capacity as the Planning Board may reasonably require.

407 Conformity with All Other Applicable Local Ordinances:

407.1 The applicant shall show that the subdivision meets all other applicable local ordinances including Zoning Ordinance Shoreland Zoning, and Floodplain Management.

408 Road and Traffic Access Standards:

408.1 All roads shall be comply with the applicable requirements of Chapter 9 Traffic Access Roads contained in the Town of Eddington Zoning Ordinance .and the following requirements.

408.2 The Planning Board shall review the type of road selected by the applicant to ensure that the road will be capable of accommodating future expansion of the subdivision and development within adjoining lands. The Planning Board shall consider the following in its review:

- (1) Particular conditions of the site do not allow for future expansion.
- (2) A phase build-out of the subdivision is proposed.
- (3) The applicant owns or has retained land adjacent to the subdivision with future development potential.
- (4) Provisions to allow future road connections to adjoining land parcels.

408.3 The Planning Board may after reviewing the particular site conditions; require that a road be constructed to a road category that is more suitable to the potential build-out of the site and that provision be included to reserve right-of-ways to connect adjoining land parcels.

408.4 The Planning Board may require that a proposed subdivision road connect to an adjoining existing or proposed subdivision road. In making this decision, the Planning board shall consider the following:

- (1) Whether the road is a public or private road and how will road maintenance be impacted.
- (2) Whether the road connection will enhance or improve the traffic flow within both subdivisions.
- (3) Whether the road connection will enhance or improve pedestrian and/or recreation access.

409 Recreational Access Standards:

409.1 Outdoor recreational access is an important feature of Eddington's rural heritage and all subdivision proposals consisting of more than 4 lots shall provide for the continued enhancement and development of a variety of recreational opportunities. Since new subdivisions and the associated housing and other development they foster can compete with existing open space, scenic and other attributes of a rural community, it shall be the responsibility of each new subdivision to provide for outdoor recreation. A recreation plan designed to serve the subdivision shall be developed according to the requirements listed below.

409.2 Since subdivision proposals vary in size, density, design, and location, a variety of options shall be offered for the development of the recreation plan. The subdivision shall be deemed to meet the recreation requirement if they conform to one of the following:

409.2.1 A minimum of 10% of the land within the subdivision is dedicated for open space. Suitable easements and/or deed restrictions shall be proposed to preserve the land from development. Land area as defined in Section 401.2 shall not be used to calculate the required 10% of open space.

409.2.2 A parcel of land consisting of at least 2 acres and having a minimum of 200 feet of shore frontage on a great pond is dedicated for recreation. The parcel shall be suitable for at least one of the following: boat access or swimming. Trails, easements, or other instruments shall be provided so that residents can access the parcel.

409.2.3 A multi-purpose trail system which can reasonably be accessed by each lot is constructed. The trail should be designed to accommodate walkers, cross-country skiing and snowmobiles. The trail must provide a link to existing trails or snowmobile routes where possible.

409.2.4 An active recreation area consisting of at least two of the following:

- Playground for children
- Baseball field
- Tennis Court (minimum of 2 courts)
- Full size basketball court
- Multi-purpose field

409.2.5 Combination of recreation options. The applicant may propose to offer a combination of recreational sites consisting of a portion of some of the options listed above. The Planning Board shall review this proposal to ensure that the intent of this section is met.

409.3 Land for recreational sites may be offered to the Town for public acceptance or may be owned in common by lot owners. The applicant may also propose to dedicate the recreation

areas to a third party that is incorporated for maintaining land for conservation and preservation.

409.4 All land proposed for recreation shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.

409.5 All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each deed of the subdivision lots.

410 Agricultural, Forest and Rural Resources:

410.1 Whenever a proposed subdivision is located adjacent to farmland, pasture field, a woodlot listed under Tree Growth, a productive forest site, or an excavation site operation suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites and agricultural, forestry or borrow operations.

410.2 All farmland within the proposed subdivision shall be mapped on the subdivision plan.

410.3 Provisions to reduce conflicts between residential and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular subdivision. Some possible options include:

410.3.1 A mandatory structure set back of 100 feet from the farm, forest, or excavation site operation.

410.3.2 A vegetative buffer along property lines.

410.3.3 Location of homes away from the farm, forest, or excavation site operation.

410.3.4 A disclosure notice, included in the deed for each lot, to inform the new landowner that agricultural, forest or excavation activities generate noise, dust and odors.

411 Rural Design and Landscape Standards:

411.1 Each subdivision proposal consisting of more than 4 lots shall include a landscape plan which shows how the lots, building sites, structures and roads preserve the existing rural character of the community. The plan shall incorporate the following standards into the overall development of the subdivision:

411.1.1 Building sites shall be oriented to respect to scenic vistas, natural landscape features, topography, and natural drainage areas.

411.1.2 Road and lot layout shall be adapted to the existing topography.

411.1.3 Existing trails shall be preserved.

411.1.4 Existing vegetation along front, side and rear lot property lines shall be preserved.

411.1.5 Lots shall be designed to enhance the privacy and rural atmosphere of the development.

411.1.6 Trees located along the roads shall be preserved to the greatest extent possible in order to maintain a rural roadscape.

411.1.7 Existing vegetation along all streams, ponds, wetlands shall be preserved.

412 Maintenance of Roads and Public Improvements and Homeowner Associations:

412.1 All roads and other public improvements that are not dedicated or accepted by the Town shall be maintained according to a homeowner association agreement. A legal agreement creating a homeowner association indicating how the infrastructure will be maintained shall be submitted to the Planning Board with the preliminary plan. The homeowners association shall include a mandatory membership requirement for all subdivision lot owners and shall include a capital improvements budget to plan for future infrastructure upgrade. The Planning Board shall review the Homeowners association agreement maintenance plan to ensure that sufficient provisions have been incorporated to maintain all improvements for the applicable period. The homeowner association agreement shall be included or legally referenced on all property deeds and on the final subdivision plan.

412.2 During such time prior to the actual acceptance by the Town of Eddington of any road or other public improvement, a homeowners association agreement plan as required in 412.1 shall be developed and submitted to the Planning Board for review and approval. The developer or the subdivision owners shall be responsible for the maintenance of roads and all other public improvements prior to acceptance by the Town of Eddington.

412.2.1 If the road or other public improvement is not accepted by the Town of Eddington, the homeowners association agreement shall remain in effect.

412.2.2 Nothing herein shall be construed to require the Town to accept any proposed subdivision road.

413 Stormwater Improvements:

413.1 Only stormwater control features within an accepted public way shall be eligible for public acceptance.

413.2 The homeowners association agreement shall include provisions for the repair and maintenance of all stormwater control features including but not limited to catch basins, culverts, ditches, and detention ponds.

413.3 Nothing herein shall be construed to require the Town to accept any proposed subdivision stormwater improvements.

414 Subdivision Public Improvement Completion Deadline:

414.1 All public improvements which are required to have a performance guarantee shall be completed within 2 years of the date of the final plan approval by the Planning Board. The applicant may submit a subdivision revision to the Planning Board to extend the deadline for an additional two years. The terms of the performance guarantee shall also be extended as necessary. Each subdivision is eligible for only one extension period.

414.2 Any subdivision which does not complete the required public improvements during the prescribed time period shall be required to submit a new subdivision application to continue any development at the site.

414.3 The terms of the subdivision public improvement completion deadline shall be included on the subdivision plan filed at the register of deeds.

Chapter 5: Enforcement

501.1 It shall be the responsibility of the Code Enforcement Officer to enforce the provisions of this Ordinance.

501.2 No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance, and until any appeal period under Section 302.13 has expired.

501.3 A person shall not convey, offer to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.

501.4 A person shall not sell, lease, offer or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot. No lots in any approved subdivision may be further divided without Planning Board approval.

501.5 No public utility, water district, sanitary district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.

501.6 Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land, or lots, or construction of buildings, which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.

501.7 No lot in a subdivision may be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance as determined by the Road Commissioner or his/her designee, up to and including the entire frontage of the lot. This statement shall be noted on the mylar submitted for recording.

501.8 Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A, M.R.S.A. ss.4452.

Chapter 6: Definitions

Words and terms not defined shall have their customary dictionary meanings.

The following words and terms, for the purpose of this ordinance, shall be defined as follows:

Development: Any change of land use including, but not limited to, the construction of buildings, parking lots, streets or utilities or the filling or cutting of land areas, or the cutting of trees that is done as part of the site preparation. Development does not, however, include normal agricultural operations, e.g. cultivation of soil, the raising of livestock, or the erection of fences, nor does it include for the purpose of subdivision or site plan review, the erection of barns and other accessory farm building.

Farmland: Farmland shall include land included under the farmland property tax program, land cultivated for crops, including hay, and livestock and animal pasture.

Plat: A map or chart of a lot, subdivision or community showing boundary lines, buildings and easements.

Private Road: See the Town of Eddington Zoning Ordinance.

Property Abutter or Abutter: Any landowner within 500 feet as measured from the property line of the proposed subdivision including any land shown as reserved land on the subdivision plan.

Public Road: Any road that has been officially accepted by the Town of Eddington as a public way, as well as any state or federal road.

Public Way: See Public Road above.

Public Improvement: The term shall include all roads, fire protection structures and ponds, any structure or land proposed to be dedicated to the town, any land or structure which is offered as an easement to the town, and all storm drainage structures which are designed to allow water to flow outside the property of the subdivision.

Resubdivision: The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

Road: A road means and includes such public or private ways as alleys, avenues, boulevards, highways, roads, streets, and other right-of-ways intended for use of motorized passenger vehicles and serving 3 or more dwelling units or abutting lots.

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

Tract or Parcel of Land - All contiguous land in the same ownership, provided that land located on opposite sides of a public road shall be considered each a separate tract of land.

Wetland A swamp, marsh , bog, vernal pool or similar area which are inundated or saturated by surface or ground water at a frequency and a duration sufficient to support and which under normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils. This is also meant to include forested wetlands.

TOWN OF EDDINGTON
WIND ENERGY FACILITY ORDINANCE

SECTION 100: LARGE SCALE WIND ENERGY FACILITY

SECTION 200: SMALL SCALE WIND ENERGY FACILITY

Prepared by
EDDINGTON PLANNING BOARD

EFFECTIVE
March 22, 2011

Town of Eddington
Large Scale Wind Energy Facility Ordinance

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TOWN OF EDDINGTON

LARGE SCALE WIND ENERGY FACILITY ORDINANCE

Section 101 - Purpose and Intent

This Ordinance is adopted pursuant to 30-A M.R.S.A. § 3001, to protect the health, safety, and welfare of the Town of Eddington and its residents. This Ordinance shall be known as the “Eddington Wind Energy Facility Ordinance.”

Section 102 - Applicability; Site Permit and Operational License Required

- 102.1 This section of the Ordinance applies to all Wind Energy Facilities proposed to be constructed or operated after the effective date of the Ordinance, that are 100 kw and above of aggregate rated operating capacity.
- 102.2 Wind Energy Facilities constructed prior to the effective date of this Ordinance shall not be required to meet the Site Permit requirements of this Ordinance, except that any modification to an existing Wind Energy Facility that materially alters the size, type or number of Wind Turbines or other equipment shall require a Site Permit under this Ordinance.
- 102.3 Wind Energy Facilities constructed prior to the effective date of this Ordinance shall be required to obtain Operational Licenses pursuant to this Ordinance within thirty (30) days of its effective date,
- 102.4 It shall be unlawful and a violation of this Ordinance to begin construction and/or operation of a Wind Energy Facility without a Site Permit and Operational License.
- 102.5 The burden of compliance with all aspects of this Ordinance is on the Applicant and the Owner/operator of a Wind Energy Facility. Approval of a Site Permit and Operational License by the Planning Board does not abrogate or reduce the responsibility of the Applicant or the Owner/operator to comply with this Ordinance. Consistent violations, particularly of the sound limits, may lead to decommissioning and removal of the Wind Energy Facility.
- 102.6 This Ordinance includes Sections 101 through 113, together with Sound Measurements and Studies, Section 114 and References, Section 115. Decisions regarding compliance or approval of an Applicant’s Site Permit and Operational License must be made in light of the entire Ordinance.

Section 103 - Definitions

The following terms are defined as follows.

Ambient Sound includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction

machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people.

Applicant means the individual or business entity that seeks to secure a Permit or License under this Ordinance.

A-Weighted Sound Level (dBA) is one measure of the overall sound level. This measure is designed to reflect the response of the human ear, which does not respond equally to all frequencies. Lower frequency sounds are given less weight than those in the mid-range of human perception. The resulting measure is said to be A-weighted and the units are dBA.

Background Sound (L₉₀) is defined over a continuous ten minute period to be the average sound level during the quietest one continuous minute of the ten minutes. L₉₀ may be measured relative to A-weighting or C-weighting, in which case it may be denoted L₉₀A or L₉₀C. It refers to sound that is normally present at least 90% of the time, and excludes any sound generated by a WEF. It also excludes intermittent sounds from flora, fauna, wind and human activity. Background sound levels vary during different times of the day and night. Because wind turbines operate continuously, the background sound levels of interest are those during quieter periods which are often the evening and night.

C-Weighted Sound Level (dBC) is similar to the A-weighted sound level (dBA), but it does not de-emphasize low frequencies to the extent that A-weighting does. For sounds with a significant low-frequency component, dBC is a more accurate measure of the energy of the sound waves than dBA.

Decibel (dB) refers to a dimensionless quantity, which is proportional to the logarithm (base 10) of a ratio of two quantities that are proportional to the power, energy or intensity of sound. One of these quantities is a reference level relative to which all other levels are measured.

Essential Wildlife Habitat means areas identified on the latest Beginning With Habitat map series produced by the Maine Department of Inland Fisheries and Wildlife, and any other area described in other definitions, maps or datasets as provided by MDIFW

Frequency is the number of complete oscillations or cycles per unit of time. See Hertz, below.

Good Utility Practice means any of the practices, methods and acts with respect to the safe operation of a WEF engaged in or approved by a significant portion of the electric utility industry and, in particular, those portions of the industry with experience in the construction, operation and maintenance of wind turbines during the relevant time period; or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could be expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be acceptable practices, methods or acts generally accepted in the region.

Hertz (Hz) is a unit of cycles per second. A process that repeats itself a given number of times in one second is said to occur at that many Hertz.

Measurement Point (MP) refers to a location where sound and/or vibration are measured.

Mitigation Waiver means a legally enforceable, written agreement between the Applicant and a Non-participating Landowner in which the landowner waives certain setback, noise or other protections afforded in the Ordinance. A Parcel in which the landowner has entered into such an agreement becomes a Participating Parcel. A complete copy of any such agreement must be provided to the Planning Board and recorded in the Penobscot County Registry of Deeds.

Noise means any sound produced by a WEF.

Non-Participating Parcel means a parcel of real estate that is neither a Project Parcel nor a Participating Parcel nor a Public or Private Way.

Occupied Building or Structure means a building that is a residence, school, hospital, house of worship, public library, hotel, motel, B & B, nursing home, seasonal residence, daycare centers, elder care facilities, places of seated assemblage, nonagricultural businesses or other building that is occupied or in use as a primary residence or is customarily frequented by the public or has been legally permitted for construction at the time when the permit application is submitted as per 104.1.

Owner/operator means the person or entity with legal ownership of a WEF or WES, including successors and assigns, that has the authority and responsibility to operate the WEF on a day-to-day basis. An Owner/operator must have the legal authority to represent and bind.

Participating Parcel means a parcel of real estate that is not a Project Parcel, but is subject to a Mitigation Waiver. A complete copy of the Mitigation Waiver must be provided to the Planning Board, and filed with the Penobscot Country Registry of Deeds.

Project Boundary means the boundaries of the WEF as shown on the site plan submitted to and approved by the Planning Board in accordance with this Ordinance.

Project Parcel means any parcel(s) of real estate on which all or any part of a WEF will be constructed.

Property Line means the recognized and mapped property boundary line.

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

Qualified Independent Acoustical Consultant. Qualifications for persons conducting baseline and other measurements and reviews related to the Application for a WEF or for enforcement actions against an operating WEF include, at a minimum, demonstration of competence in the specialty of community noise testing and Board Certified Membership in the Institute of Noise Control Engineers (INCE). Certifications such as Professional Engineer (P.E.) do not test for competence in acoustical principles and measurement and are thus not, without further qualification, appropriate for work under this Ordinance. The Independent Qualified Acoustical Consultant can have no direct or indirect financial or other relationship to an Applicant.

Scenic Resource means a scenic resource of state or national significance, as defined in Title 35-A M.R.S.A. § 3451(9), any site registered in the National Registry of Historic Places, or a scenic resource of local significance identified as such in the Eddington Comprehensive Plan, or listed on the Visual Resource Inventory of the Eddington Comprehensive Plan.

Sensitive Receptor means places or structures intended for human habitation, whether inhabited or not, public parks, state and federal wildlife areas, the manicured areas of recreational establishments designed for public use, including but not limited to camp grounds and other nonagricultural businesses. These areas are more likely to be sensitive to the exposure of the noise, vibration, shadow or flicker generated by a WEF.

Significant Wildlife Habitat means areas identified on the latest Beginning With Habitat map series produced by the Maine Department of Inland Fisheries and Wildlife, and any other area described in other definitions, maps or datasets as provided by MDIFW

Sound. A fluctuation of air pressure which is propagated as a wave through air.

Sound Level (L₁₀) refers to the sound level exceeded 10% of the time. During any continuous ten-minute period, L₁₀ is defined to be the average sound level during the loudest one continuous minute of the ten minutes. L₁₀ may be measured relative to A-weighting or C-weighting, in which case it may be denoted L₁₀A or L₁₀C.

Sound Level (L₉₀) refers to Background Sound (see above).

Sound Level (L_{eq}) is the frequency-weighted equivalent sound level. It is defined to be the steady sound level that contains the same amount of acoustical energy as the corresponding time-varying sound. L_{eq} may be measured relative to A-weighting or C-weighting, in which case it may be denoted L_{eq}A or L_{eq}C.

Sound Level (pre/post). Each of the Sound Levels defined above, L₉₀, L₁₀ and L_{eq}, whether A-weighted or C-weighted, may be followed by “(pre)” or “(post)”. Post-construction Sound Levels measured with all elements of the WEF turned on will be denoted with “(post)”. During the application process, before the WEF has been constructed, “(post)” will be used to denote the pre-construction estimate of the post-construction Sound Level. Pre-construction Sound Levels, or Sound Levels measured with all elements of the WEF turned off will be denoted with “(pre)”. See Sound Measurements and Studies, Section 114, particularly Sections 114.3.3.1, 114.3.5, 114.4.

Turbine Height means the total distance measured from the grade of the property as it existed prior to the construction of the wind energy system, facility, tower, turbine, or related facility at the base to its highest point. In the case of a wind turbine, this includes the length of the blade at its highest possible point.

Wind Energy System (WES) means equipment that converts and then transfers energy from the wind into usable forms of energy on a large, industrial scale for commercial or utility purposes with sale off premises or onto the utility grid.

Wind Energy Facility (WEF) means all of the land and equipment used by the Wind Energy System and its support facilities including the wind turbine, tower, access roads, control facilities, meteorological towers, maintenance and all power collection and transmission systems.

Wind Energy Facility Operational License or WEF Operational License means a license to operate a Wind Energy System issued by the Board of Selectmen following approval by the Planning Board in accordance with this Ordinance

Wind Energy Facility Site Permit or WEF Site Permit means a Permit to construct a Wind Energy System approved by the Planning Board and issued by the Code Enforcement Officer in accordance with this Ordinance.

Wind Turbine or Turbine (WT) means a mechanical device which captures the energy of the wind and converts it into electricity. The primary components of a wind turbine are the blade assembly, electrical generator and tower.

Section 104 - Site Permit Application Procedures

- 104.1 Applications for a WEF Site Permit shall be submitted 14 days before the next scheduled Planning Board meeting for Planning Board review. The application for a WEF Site Permit shall include all of the information, documents, plans, deposits and other items required to be submitted with an application under this section, Section 105, a preliminary cost agreement and the fees specified in Section 107, along with any costs outlined in Section 114, Sound Measurements and Studies. At least nine copies of all written materials, including maps or drawings, shall be provided. Written materials shall be contained in a bound report.
- 104.2 The Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, determine whether the Application is complete and contains all of the materials, information, agreements, deposits and payments required to be submitted with an Application under this section, Sections 105, 106, 107 and Section 114, Sound Measurements and Studies, , within 60 days of it being accepted at a Planning Board Meeting. The Planning Board may extend the review process an additional 30 days. If an Application is not complete, then the Applicant shall be so advised, and no further action shall be taken by the Planning Board until a complete Application is received.
- 104.3 After the Planning Board determines that an Application is complete, the Planning Board shall determine whether the Application meets all requirements of this Ordinance. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants, as it deems appropriate. The Planning Board shall process the Application within 90 days considering the complexity of the Application, other business facing the Town, staff and other resources, questions that arise during the review process, and other matters affecting the time needed to complete the review process. The Planning Board may extend the review process an additional 90 days. If no decision has been reached by the Planning Board within 180 days, the application as submitted is deemed approved.
- 104.4 If an Application is complete and meets all requirements of this Ordinance, and the Applicant has paid all fees and costs pursuant to Sections 105 and 107 and Sound Measurements and Studies, Section 114, and any Public Hearings as described in the Zoning Ordinance Section 401.2 have been completed, (At least one Public Hearing will be held within 30 days of the application being determined complete.) then the Planning Board shall approve a WEF Site Permit for the WEF. If an Application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs, then the Planning Board may deny the Application or

approve the Application with conditions that will assure compliance with this Ordinance. If an Application is approved with conditions, then a WEF Site Permit for the WEF shall be issued when all conditions of approval have been satisfied.

104.4.1 An appeal from the decision of the Planning Board may be taken to the Appeals Board by the WEF Permittee, Owner/operator or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Town Clerk within 30 days after the final action of the Planning Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the Planning Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the Planning Board's determination.

104.5 Any significant modification of the approved WEF, such as but not limited to, the number of WTs, tower height, tower locations, turbine design and specifications shall require the Applicant to obtain an amended Site Permit from the Planning Board, pursuant to this Ordinance. The application procedures and permit requirements and standards for amending a Site Permit are the same as for an initial application.

104.6 An Application for a WEF Site Permit shall include the following information and meet the following requirements. Items that are considered to be part of the Site Plan are followed by "(SP)" in the list below.

104.6.1 The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different.

104.6.2 A narrative describing the proposed WEF, including an overview of the project, the project location, and the generating capacity and expected production of the WEF.

104.6.3 Evidence of the Applicant's technical and financial ability to implement the project as proposed.

104.6.4 An overview map that includes the extent of the entire Town, showing all roads, together with the location of all WTs, access roads, power transmission lines, and any other features of the WEF deemed to be relevant by the Planning Board. (SP)

104.6.5 The tax map and lot number of all Project Parcels. (SP)

104.6.6 For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant and/or the Owner/operator.

104.6.7 The boundaries of all Project Parcels, surveyed by a Maine Professional Land Surveyor, with name, registration number and seal of the surveyor provided. (SP)

104.6.8 The boundaries of all Participating Parcels located within 5,280 and 7,920 feet of any proposed WT, together with the distance to all boundary lines relative to each proposed WT, as measured from the nearest point of the property line to the WT. This can be

accomplished using the town's digital property parcel GIS (Geographic Information Systems) layer overlaid on the most current aerial photo available, with approximate WT locations shown and 7,920-foot buffer circles provided around each WT location (SP). See also 104.6.25

- 104.6.9 The boundaries of all Non-Participating Parcels located within 5,280 and 7,920 feet of any proposed WT, together with the distance to all boundary lines relative to each proposed WT, as measured from the nearest point of the property line to the WT. This can be accomplished using the town's digital property parcel GIS (Geographic Information Systems) layer overlaid on the most current aerial photo available, with approximate WT locations shown and 7,920-foot buffer circles provided around each WT location (SP). See also 104.6.25
- 104.6.10 The names, addresses and phone numbers of the owners of all Project Parcels, Participating Parcels, and Non-Participating Parcels located within 7,920 feet of any proposed WT, with each property owner's status indicated (Project Parcel, Participating Parcel or Non-Participating Parcel), including the book and page reference of the identified owner's interest as recorded in the Penobscot County Registry of Deeds.
- 104.6.11 An aerial photo showing all Project Parcels, Participating Parcels, and Non-Participating Parcels located within 7,920 feet of any proposed WT.
- 104.6.12 Existing zoning of each Project Parcel and all required zoning setbacks on each Project Parcel. (SP)
- 104.6.13 The location of all components of the WEF, including but not limited to the WTs, access roads, control facilities, meteorological towers, turnout locations, substation(s), ancillary equipment, buildings, structures, and temporary staging areas, together with maintenance and all power collection and transmission systems. (SP)
- 104.6.14 The location and description of all structures located on Project Parcels, and all occupied structures located on Participating and Non-Participating Parcels located within 7,920 feet of any proposed WT. (SP)
- 104.6.15 Dimensional representation and sizes of the structural components of the tower construction including the base, footings, tower, and blades. (SP)
- 104.6.16 The distance between each WT tower and each of the following shall be shown on the site plan: those structures listed in 104.6.14, above, above-ground utility lines, telephone lines, towers, and public ways located within 7,920 feet of any proposed WT. (SP)
- 104.6.17 Schematic of electrical systems associated with the proposed WEF including all existing and proposed electrical connections.
- 104.6.18 Manufacturer's specifications and installation and operation instructions.
- 104.6.19 The direction of proposed surface water drainage across and from Project Parcels and Participating Parcels, with an assessment of impacts on downstream properties and water resources, including, but not limited to, streams and wetlands. (SP)
- 104.6.20 The location of any of the following found within 7,920 feet of any proposed WT: open drainage courses, wetlands, and other important natural areas and site features, including,

but not limited to, floodplains, deer wintering areas, Essential Wildlife Habitats, Significant Wildlife Habitats, Scenic Resources, habitat of rare and endangered plants and animals, unique natural areas, sand and gravel aquifers and historic and/or archaeological resources, together with a description of such features. (SP)

- 104.6.21 Provisions made for handling all solid wastes, including hazardous and special wastes and the location and proposed screening of any on-site collection or storage facilities. (SP)
- 104.6.22 The location, dimensions and materials to be used in the construction of proposed roads, driveways, parking areas and loading areas, together with an assessment of any changes to traffic flow. (SP)
- 104.6.23 A topographical overlay for the Project Parcel(s), Participating Parcels and Non-Participating Parcels located within 7,920 feet of any proposed WT.
- 104.6.24 The size and scale of maps and diagrams shall be as determined by the Planning Board, and shall include a north arrow, the date, the scale, and date and seal of a Maine Professional Land Surveyor or professional engineer. (SP)
- 104.6.25 Each map described as showing a feature within a certain distance of a WT shall be displayed by showing a marker symbol for each WT point location, and a buffer circle of the requested distance shall be drawn around each tower. The town will make available its current digital property parcel GIS layer.
- 104.6.26 The site plan shall include such additional relevant information as the Planning Board may require. (SP)

Section 105 - Site Permit Requirements and Standards

105.1 Sound Modeling, Sound Standards and Sound-Related Enforcement Procedures

- 105.1.1 Independent Pre-licensing Sound Study. An Application for a WEF Site Permit shall include a four season sound study as specified in Sound Measurements and Studies. This study shall be conducted by a Qualified Independent Acoustical Consultant, selected by the Planning Board. The consultant will review this study and assist the Planning Board in determining whether the proposed WEF will comply with the sound limits set forth in this Ordinance. The Applicant shall provide financial surety that the cost of the study, and its review, will be borne by the Applicant, in accordance with Section 107 of this Ordinance.
- 105.1.2 Sound Limits(0 to 5280 feet). No Site Permit shall be issued if the pre-licensing information or sound study indicates that the proposed WEF will not comply with the following requirements, which are to apply everywhere within one mile (5280 feet) of any WT, except on Project Parcel(s) or on a Participating Parcel(s) which is subject to a Mitigation Waiver which specifies different sound limits than those below. If pre-construction estimates of the post-construction sound levels, exceed the limits below, then the WEF Application will be denied.

The sound limits below are stated in terms of $L_{90}A(\text{pre})$, $L_{eq}A(\text{post})$, $L_{eq}C(\text{post})$, $L_{90}C(\text{post})$ and $L_{eq}A(\text{post})$. Each of these quantities is defined in Sound Measurements and Studies, Section 114, particularly in Sections 114.3.3.1, 114.3.5 and 114.4. Prior to construction of the WEF, the “pre” values are as measured and the “post” values are as calculated, following the guidelines of Sound Measurements and Studies. After the WEF has been constructed, the “pre” values are the WEF-Off values and the “post” values are the WEF-On values.

105.1.2.1 Audible Sound Limit

105.1.2.1.1 No WT, WES or WEF shall be located so as to generate post-construction sound levels that exceed 40 dBA at night (7:00 p.m. to 7:00 a.m.) or 50 dBA during the day (7:00 a.m. to 7:00 p.m.). The appropriate value to use for the post-construction sound level is $L_{eq}A(\text{post})$.

105.1.2.1.2 A 5 dB penalty is applied for tones as defined in IEC 61400-11, page 34.

105.1.2.2 Low Frequency Sound Limit

105.1.2.2.1 $L_{eq}C(\text{post})$ minus $L_{90}A(\text{pre})$ must be less than 20 dB outside of any occupied structure.

105.1.2.2.2 $L_{90}C(\text{post})$ may not exceed 50 dBC, without contribution from other ambient sounds, for properties located one mile or more away from state highways or other major roads, and it may not exceed 55 dBC for properties closer than one mile from a state highway or other major road.

105.1.2.3 General Standard

$L_{eq}A(\text{post})$ may never exceed 35 dBA within 100 feet of any occupied structure.

105.1.2.4 Mitigation Waiver

Property owners may waive these sound restrictions with a written Mitigation Waiver agreement. A complete copy of any such agreement must be filed with the Planning Board and Recorded in the Penobscot County Registry of Deeds.

105.1.3 Sound Limits (5280 feet to 7920 feet). No Site Permit shall be issued if the pre-licensing information or sound study indicates that the proposed WEF will not comply with the following requirements, which are to apply everywhere within a distance ranging from one mile (5280 feet) to one and one-half miles (7920 feet) of any WT, except on Project Parcel(s) or on a Participating Parcel(s) which is subject to a Mitigation Waiver which specifies different sound limits than those below. If pre-construction estimates of the post-construction sound levels, exceed the limits below, then the WEF Application will be denied.

The sound limits below are stated in terms of $L_{90}A(\text{pre})$, $L_{eq}A(\text{post})$, $L_{eq}C(\text{post})$, $L_{90}C(\text{post})$ and $L_{eq}A(\text{post})$. Each of these quantities is defined in Sound

Measurements and Studies, particularly in Parts c(3)A, c5 and d. Prior to construction of the WEF, the “pre” values are as measured and the “post” values are as calculated, following the guidelines of Sound Measurements and Studies. After the WEF has been constructed, the “pre” values are the WEF-Off values and the “post” values are the WEF-On values.

105.1.3.1 *Audible Sound Limit*. No WT, WES or WEF shall be located so as to generate post-construction sound levels that exceed pre-construction sound levels by more than 10 dBA. The appropriate value to use for the pre-construction sound level is $L_{90}A(\text{pre})$; the appropriate value to use for the post-construction sound level is $L_{eq}A(\text{post})$.

105.1.3.2 *Low Frequency Sound Limit*

105.1.3.2.1 $L_{eq}C(\text{post})$ minus $L_{90}A(\text{pre})$ must be less than 20 dB outside of any occupied structure.

105.1.3.2.2 $L_{90}C(\text{post})$ may not exceed 50 dBC, without contribution from other ambient sounds, for properties located one mile or more away from state highways or other major roads, and it may not exceed 55 dBC for properties closer than one mile from a state highway or other major road.

105.1.3.3 *General Standard*

$L_{eq}A(\text{post})$ may never exceed 35 dBA within 100 feet of any occupied structure.

105.1.3.4 *Mitigation Waiver*

Property owners may waive these sound restrictions with a written Mitigation Waiver agreement. A complete copy of any such agreement must be filed with the Planning Board and Recorded in the Penobscot County Registry of Deeds.

105.1.4 *Post-construction Sound Measurements*. Within twelve months after the date when the WEF is operating, a post-construction sound study shall be performed, with all WTs operating, as described in Section 114.4 of Sound Measurements and Studies. Post-construction sound studies shall be conducted by a Qualified Independent Acoustical Consultant chosen by the Planning Board. The Permittee will provide financial surety that the costs of these studies shall be paid by the Permittee. The surety required by Section 107 shall include these costs.

A Consultant of the Permittee may observe the Town’s consultant. The WEF Permittee shall provide all technical information required by the Planning Board or Independent Qualified Acoustical Consultant before, during, and/or after any acoustical studies required by this document and for local area acoustical measurements. The post-construction sound measurements, as described in Section 114.4 of Sound Measurements and Studies, shall be repeated at least every five years throughout the life of the facility.

105.2 Set-Back Requirements

105.2.1 A WEF shall comply with the following setback requirements, which shall apply in addition to the siting requirements found elsewhere in this Ordinance. If more than one set-back requirement applies, the greater set-back distance shall be met.

105.2.1.1 All parts of a WEF shall comply with all applicable set-back requirements in the Town's Zoning Ordinance.

105.2.1.2 Each WT shall be set back at least 2,500 feet from the property line of any Non-Participating Parcel. Property owners may waive this setback with a written Mitigation Waiver agreement.

105.2.1.3 Each WT shall be set back at least 1,500 feet from any Town Road or Private Way and 2500' from any State or Federal Highway, except access roads to the Wind Energy Facility.

105.2.1.4 Each WT shall be set back at least 1,200 feet from any above-ground electric power line or telephone line except that a lesser setback shall be permitted if the utility agrees, in writing, and this agreement is approved by the Planning Board, excluding components of the Wind Energy Facility.

105.2.1.5 Each WT shall be set back not less than 5,280 feet from any residence, business, school, daycare facility, church, hospital, or other Occupied Structure on any Non-Participating Parcel. Property owners may waive this setback with a written Mitigation Waiver agreement.

105.2.1.6 Each WT shall be set back not less than 1,500 feet from any residence, business, school, daycare facility, church, hospital, or other existing Occupied Structure, including those located on any Participating Parcel or Project Parcel. This setback cannot be waived by a Mitigation Agreement.

105.2.1.7 All WTs must be set back a minimum of 2,500 feet from any Scenic Resource as defined in Section 103.24.

105.2.1.8 All set-back distance measurements shall be based on horizontal distances. Setbacks to be measured from the blades.

105.2.2 changes in approved plans necessary to address field conditions may be approved by the Planning Board, provided that any such change does not affect compliance with the Ordinance. The Permittee shall submit revised plans to the Planning Board showing the proposed change, which, if approved, shall be considered an amendment to an existing Site Permit and/or Operational License, as appropriate. In the event that a majority of the Planning Board believes that a requested change constitutes a material change to a Site Permit and/or Operational License, or if the changes will affect compliance with the Ordinance, full reapproval is required.

105.2.3 All construction activities must conform to the approved site plan, including any conditions of approval and changes approved by the Planning Board to address field conditions.

105.2.4 Upon completion of the project, the Permittee must provide the Planning Board with a set of construction plans showing the structures and site improvements as actually constructed. These “as-built” plans must be submitted within thirty days of completion of the WEF, and before commencement of operation of the WEF.

105.3 Plan and Risk Assessment for Road and Property Use

105.3.1 An Application for a WEF Site Permit shall include a road and property use and risk assessment plan containing the following information and meeting the following requirements.

105.3.1.1 A description and map of all public ways, and other property, in the Town to be used or affected in connection with the construction of the WEF, including a description of how and when such ways and property will be used or affected.

105.3.1.2 A description of the type and length of vehicles and type, weight and length of loads to be conveyed on all public ways in the Town.

105.3.1.3 A complete assessment of the proposed use of public ways in the Town in connection with the construction of the WEF, including the adequacy of turning radii; the ability of the public ways to sustain loads without damage; the need to remove or modify (permanently or temporarily) signs, trees, utilities, or anything else; any reasonably foreseeable damage to public ways or other property, public or private; any reasonably foreseeable costs that the Town may incur in connection with the use of property in the Town, including but not limited to costs relating to traffic control, public safety, or damage to public ways, or to other public or private property.

105.3.1.4 A traffic control and safety plan relating to the use of public ways in the Town in connection with the construction of the WEF.

105.3.1.5 Any additional relevant information that the Planning Board may request relating to the use of public ways or other effects on public and private property that may occur in connection with the construction and operation of the WEF.

105.3.2 The Planning Board will evaluate the risk assessment plan with assistance from such consultants that it deems appropriate, including without limitation a third-party engineer chosen by the Planning Board, the cost to be solely borne by the Applicant. The Planning Board may document the condition of public ways and other property to be used in connection with the construction of the WEF in such manner as it deems appropriate. The Planning Board may require changes to the risk assessment plan that it deems to be appropriate to protect public safety, to protect public and private property, and to address anticipated costs to the Town associated with construction of the WEF.

105.3.3 If the Applicant requires the temporary closure of any public way, the Planning Board may require the Applicant to enter into an agreement relating to the use of the public way.

105.3.4 The Applicant shall be responsible for paying for any damage to any public way. If the risk assessment anticipates damage to any public way, the Planning Board may require the Applicant to provide a surety in an amount that the Planning Board determines appropriate

to secure any obligations under the agreement, including but not limited to any obligation relating to alterations or modifications to public ways made in connection with the Applicant's activities.

105.4 Design Plan and Design Requirements.

An Application for a WEF Site Permit shall include a design plan containing the information and meeting the following requirements.

105.4.1 The total height of any WT shall not exceed 400 feet above grade, as measured to the blade tips at their maximum distance above grade.

105.4.2 Wind Turbines shall be painted a non-reflective, non-obtrusive color.

105.4.3 The design of the buildings shall, to the extent reasonably feasible, use materials, colors, textures, screening and landscaping that will blend with and be compatible with the natural setting and the existing environment.

105.4.4 Wind Turbines shall not be artificially lighted, except to the extent required by law, and strobe or other intermittent lights are prohibited unless required by law.

105.4.5 No advertising or display shall be permitted, other than reasonable identification of the manufacturer or operator of the Wind Turbines or WEF.

105.4.6 Electrical controls and control wiring and power-lines must be wireless or below ground, except where WES collector wiring is brought together for connection to the utility grid.

105.4.7 The clearance between the ground and the Wind Turbine blades shall be not less than 25 feet.

105.5 Additional Protection Requirements.

The Application shall include a statement from the Federal Aviation Administration that the proposed WEF will not pose a hazard to aircraft. . The Applicant must demonstrate that the proposed WEF will not have an undue adverse effect on rare, threatened, or endangered wildlife, Significant Wildlife Habitat, Essential Wildlife Habitat, rare, threatened or endangered plants and rare and exemplary natural plant communities and ecosystems.

The Applicant must provide memoranda from the Maine Department of Inland Fisheries and Wildlife (MDIFW) Environmental Coordinator and from the Maine Natural Areas Program (MNAP) outlining any concerns that these bodies may have with the proposed WEF. In the absence of any such concerns, the Applicant must provide copies of correspondence with these bodies showing that no such concerns exist.

105.6 Blasting Plan and Requirements

The Application shall include a blasting plan containing the information and meeting the requirements of the State of Maine Statute Title 38, Chapter 3, Subchapter 1, Article 8-A,

§ 490-Z(14). The Applicant must execute this plan, and bears sole responsibility for the associated costs. Blasting shall be performed only after approval has been given to the Applicant by the State of Maine for such operations and must comply with the provisions set forth by MRSA 38, Chapter 3, Subchapter. 1, Art. 8-A., § 490-Z(14).

105.7 Signal Interference Requirements

The WEF shall not cause any disruption or loss of radio, telephone, television or similar signals. The Applicant shall provide a statement from the Federal Communications Commission that the proposed WEF will not cause any disruption of radio, television or similar signals.

105.8 Shadow Flicker and Blade Glint Assessment and Requirements

105.8.1 Shadow flicker occurs when the blades of a Wind Turbine pass between the sun and an observer, casting a readily observable, moving shadow on the observer and his or her immediate environment. Blade Glint is defined as the intermittent reflection of the sun off the surface of the blades of a wind turbine. The Application shall include a detailed shadow flicker and blade glint assessment model and an estimate of the expected amount of flicker and glint. This study must meet the following requirements.

105.8.1.1 The study shall be prepared by a registered professional regularly engaged in this type of work who is chosen by the Planning Board. The Applicant shall be responsible for paying the registered professional's fees and all costs associated with conducting the study. The Applicant shall provide financial surety to the Town for the cost of the study in accordance with Section 107 of this Ordinance. There shall be an absence of any conflict of interest as defined in Section 112 of this Ordinance for any professional conducting this study.

105.8.1.2 The study will examine the areas within a one mile radius of any WT in the proposed WEF.

105.8.1.3 The model will be calculated using the following minimum inputs:

105.8.1.3.1 Turbine locations (proposed and existing)

105.8.1.3.2 Shadow flicker Sensitive Receptor locations

105.8.1.3.3. Existing topography (elevation contours and vegetation)

105.8.1.3.4 Rotor diameter, blade width and hub height

105.8.1.3.5. Joint wind speed and direction distribution (wind rose table)

105.8.1.3.6 Hours of sunshine (long term monthly references)

105.8.1.4 The model may be prepared by use of current aerial photography and topographical maps. A site visit by the preparer is required to identify Sensitive Receptors and to verify the existing conditions.

105.8.1.5 The study shall estimate the locations and durations of shadow flicker caused by the proposed WEF within the study area. The study shall clearly indicate the duration of shadow flicker at locations throughout the study area, showing the total number of hours per year anticipated.

105.8.1.6 The study must include estimates for the duration of shadow flicker at all existing occupied structures and roadways. The estimated duration of shadow flicker at such locations shall include flicker that occurs within 100 feet of the structures.

105.8.1.7 The study must include a statement of the assumptions made, methodology applied, and data used by the study. This information must be sufficient to allow an independent third party to verify the results of the study.

105.8.1.8 The study shall include a paint sample that demonstrates the color, texture and gloss of the proposed surface coating and a certification that the proposed surface coating will not create a reflective surface conducive to blade glint.

105.8.2 The Application will not be approved if the study estimates that the duration and location of flicker will be such that there are more than 10 hours of flicker per year at any occupied structure located on a Non-participating Parcel. If, after construction, the WEF violates this condition, then the WEF will be in violation of this Ordinance. Non-participating property owners may waive this with a written mitigation waiver.

105.8.3 Blade glint is prohibited.

105.9 Sign Plan and Sign Requirements.

An Application for a WEF Site Permit shall include a sign plan meeting the requirements in this section.

105.9.1 The plan shall provide reasonable signage at the WEF, identifying the Project Parcels as being part of the WEF and providing appropriate safety notices and warnings.

105.9.2 No advertising material or signage other than warning, equipment information or indicia of ownership shall be allowed on the Wind Turbines. This prohibition shall include the attachment of any flag, decorative sign, streamers, pennants, ribbons, spinners or waving, fluttering or revolving devices, but not including weather devices.

105.9.3 The address and phone number of the Owner/operator and Licensee shall be posted on all access points from public roads.

105.10 Stray Voltage Assessment and Requirements.

105.10.1 An Application for a WEF Site Permit shall include reports of stray voltage analyses in accordance with this section. The Applicant shall conduct and include a report of a pre-construction stray voltage test on all commercial livestock facilities located within a one-mile radius of the Project Parcels. The tests shall be performed by an investigator, approved by the Planning Board, using a testing protocol which is approved by the Planning Board. A report of the tests shall be provided with the WEF Site Permit Application and shall be provided to the owners of all property included in the study area. Applicant shall seek written permission from property owners prior to conducting testing

on such owners' property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

105.10.2 Following construction of the WEF and within one year after commencing operation, the Applicant shall conduct a post-construction stray voltage test on all commercial livestock facilities located within a one-mile radius of the Project Parcels. The tests shall be performed by an investigator approved by the Planning Board and shall be performed using a testing protocol which is approved by the Planning Board. A report of the tests shall be provided to the Planning Board and to the owners of all property included in the study area. Applicant shall seek written permission from property owners prior to conducting testing on private property. Applicant shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing.

105.10.3 The Applicant or subsequent holder of the Operational License shall provide neutral isolation devices to property owners where testing reveals neutral-to-earth voltages in excess of 0.5 volts caused by the WEF.

105.11 Security Plan and Requirements

The Application shall include a security plan that contains the information and meets the requirements in this section.

105.11.1 The outside of Wind Turbines shall not be climbable.

105.11.2 All access doors to the towers and electrical equipment shall be locked.

105.11.3 Warning signs shall be placed on each tower, all electrical equipment, and each entrance to the WEF.

105.11.4 All motor vehicle access points to the WEF from public roads shall be gated.

105.12 Fire Prevention and Emergency Response Plan and Requirements.

An Application for a WEF Site Permit shall include a fire prevention and emergency response plan containing the information and meeting the requirements in this section. The plan shall describe the potential fire and emergency scenarios that may require a response from fire, emergency medical services, police or other emergency responders. The plan shall designate the specific agencies that would respond to potential fire or other emergencies, shall describe all emergency response training and equipment needed to respond to a fire or other emergency, shall include an assessment of the training and equipment available to the designated agencies, and shall provide for any special training or emergency response equipment that the designated agencies need to use in responding to a potential fire or other emergency. The study shall be conducted at Applicant's cost and the Applicant shall pay for the cost of any training or equipment required by local fire and emergency responders.

Access to the WEF and construction area(s) shall be constructed and maintained following a detailed erosion control plan in a manner designed to control erosion and to provide maneuverability for service and emergency response vehicles.

105.13 Emergency Shutdown Plan and Requirements.

An Application for a WEF Site Permit shall include an emergency shutdown plan. The plan shall describe the circumstances under which an emergency shutdown may be required to protect public safety, and shall describe the procedures that the Town and the Owner/operator and Licensee will follow in the event an emergency shutdown is required.

105.14 Decommissioning and Site Restoration Plan and Requirements.

An Application for a WEF Site Permit shall include a decommissioning and site restoration plan containing the information and meeting the requirements in this section.

105.14.1 The plan shall provide for the removal from the Project Parcels, and lawful disposal or disposition of, all Wind Turbines and other structures, hazardous materials, electrical facilities, and all foundations. The plan shall provide for the removal of all access roads. The plan shall provide for the restoration of the Project Parcels to a condition similar to that which existed before construction of the WEF.

105.14.2 The plan shall provide for the decommissioning of the site upon the expiration or revocation of the WEF Permit, or upon the abandonment of the WEF. Any portion of a WEF shall be deemed abandoned if its operation has ceased for twelve consecutive months.

105.14.3 The plan shall include provisions for financial surety to ensure completion of decommissioning and site restoration, in form and amount satisfactory to the Planning Board. A performance bond or cash escrow account held by the town shall be acceptable surety. 20% of the estimated cost of decommissioning shall be added to the surety account by the WEF on an annual basis until the security account accrues 100% of the estimated cost of decommissioning and restoration in accordance with the approved plan adjusted for inflation and as approved by the Planning Board. Once the account has accrued 100% of the estimated cost to complete decommissioning and restoration, no further contributions will be required, but the surety account shall remain in effect for the full operating life of the WEF. Failure to maintain the surety account shall be cause for revocation or denial of renewal of the WEF Operational License issued under Section 106.

105.14.4 The plan shall include written authorization from the WEF Permittee and all owners of all Project Parcels for the Town to access the Project Parcels and implement the decommissioning and site restoration plan, in the event that the WEF Permittee fails to implement the plan. The written authorization shall be in a form approved by the Planning Board and recorded in the Penobscot County Registry of Deeds.

105.15 Mitigation Waiver Agreement

Non-participating Landowners may waive certain specified protections in this Ordinance using a written, legally enforceable Mitigation Waiver negotiated between the wind turbine Applicant and the Non-participating Landowner, who thereby becomes a Participating Landowner. Complete copies of executed Mitigation Waivers must be included with the submission of the WEF Application. The Mitigation Waiver must be recorded in the Penobscot County Registry of Deeds, and describe the benefited and burdened properties. Any subsequent deed must advise all subsequent owners of the burdened property.

105.16 Inspections

Wind Turbines shall be inspected after construction is completed but before becoming operational, and at least every two years thereafter, for structural and operational integrity by a Maine licensed professional engineer, and the Owner/operator and/or Licensee shall submit a copy of the inspection report to the Planning Board. If such report recommends that repairs or maintenance are to be conducted, then the Owner/operator and/or Licensee shall provide the Planning Board with a written schedule for the repairs or maintenance. Failure to complete the repairs or maintenance in accordance with the schedule shall be deemed a violation of this Ordinance and shall result in the immediate revocation of the WEF operating license.

105.17 Liability Insurance

The Applicant, Permittee, Owner/operator and Licensee, as applicable, shall maintain a current general liability policy for the WEF that covers bodily injury and property damage in an amount commensurate with the scope and scale of the WEF, minimum of 5 million dollars and acceptable to the Planning Board, which acceptance shall not be unreasonably withheld. Certificates of insurance shall be provided to the Planning Board annually.

The policy must include the requirement that the Planning Board will be provided at least ten days notice by the policy provider in the case of cancellation or change to the policy. In addition, the Applicant, Permittee, Owner/operator and Licensee, as applicable, must inform the Planning Board of such changes.

105.18 Construction Codes

105.18.1 All wiring shall be installed underground according to

105.18.1.1 The National Electrical Code, 2008 Edition, designated as “NFPA 70-2008” and published by the National Fire Protection Association, and any amendments and/or replacements thereof.

105.18.1.2 The National Electrical Safety Code, 2007 Edition, published by IEEE, and any amendments and/or replacements thereof.

105.18.1.3 IEEE Standard 142, “Grounding for Industrial and Commercial Power Systems”, 2007 Edition, published by IEEE, and any amendments and/or replacements thereof.

105.18.2 All construction shall be conducted in accordance with the International Building Code 2006, published by the International Code Council, Inc and any amendments and/or replacements thereof.

Section 106 - Operational License

106.1 Applications for a WEF Operational License shall be submitted to the Planning Board.

106.1.1 Where an Applicant is applying for a new or amended WEF Site Permit, the application for a WEF Operational License, or amended license, shall be submitted to the Planning Board in conjunction with the Site Permit application, and shall include the application form and the separate fee specified in Section 107.

106.1.2 Where an Applicant is applying for a WEF Operational License renewal, a new License as the result of transfer of ownership or operation, or reinstatement or modification of an Operational License, the Applicant shall submit an application form, a copy of the existing WEF Site Permit, and the fee specified in Section 107.

106.2 The application for a WEF Operational License shall include the following items:

106.2.1 The Applicant's name, address and phone number, and the name, address and phone number of the Owner/operator, if different;

106.2.2 An emergency directory for the Owner/operator sufficient to allow the Town to contact the Owner/operator at any time;

106.2.3 Evidence of the Applicant's technical and financial ability to operate the WEF in accordance with this Ordinance, the Site Permit, and the Operational License;

106.2.4 For any Project Parcel that is not owned by the Applicant, a copy of any agreement(s) between the owner of the Project Parcel and the Applicant;

106.2.5 An updated security plan in accordance the requirements of Section 105.11;

106.2.6 An updated fire prevention and emergency response plan in accordance with the requirements of Section 105.12;

106.2.7 An updated emergency shutdown plan in accordance with the requirements of Section 105.13;

106.2.8 An updated decommissioning and site restoration plan in accordance with the requirements of Section 105.14, including a transfer of financial surety rights from prior License holder;

106.2.9 Updated liability insurance information in accordance with the requirements of Section 105.17; and

106.2.10 A signed statement from the Applicant that the Applicant agrees to assume full responsibility for complying with the provisions of this Ordinance and the Site Permit, including agreeing to continue or complete any duties and obligations of the former Operational License holder under this Ordinance or former Operational License, including, but not limited to, the requirement for post-construction sound measurements, post-construction stray voltage testing, wind turbine inspections, and submission to inspections.

Items 106.2.3 through 106.2.9 do not need to be duplicated if the Operational License is submitted in conjunction with an application for a Site Permit.

106.3 The Planning Board shall, with assistance from such staff, consultants, committees or commissions as it deems appropriate, determine whether the Application is complete. If an Application is not complete, then the Applicant shall be so advised, and no further action shall be taken by the Planning Board until a complete Application is received.

- 106.4 After the Planning Board determines that an Application is complete, the Planning Board shall determine whether the Application meets all requirements of this Ordinance. In determining whether the Application meets the requirements of this Ordinance, the Planning Board may obtain assistance from such staff and consultants as it deems appropriate. The Planning Board shall process the Application within 30 days after conducting a Public Hearing as described in the Zoning Ordinance, Section 401.2
- 106.5 If an Application is complete and meets all requirements of this Ordinance, as determined by the Planning Board, and the Planning Board has forwarded written notice of their recommendations to the Board of Selectmen and the Applicant has paid all fees and costs, then the Board of Selectmen shall approve a WEF Operational License for the WEF. If an Application does not meet all requirements of this Ordinance or the Applicant has not paid all fees and costs, then the Board of Selectmen may deny the Application or approve the Application with conditions that will assure compliance with this Ordinance. If an Application is approved with conditions, then a WEF Operational License for the WEF shall be issued when all conditions of approval have been satisfied, or, when the Board of Selectmen deems appropriate under the circumstances, the Board of Selectmen may issue a Temporary Operational License for up to 90 days.
- 106.6 An appeal from the decision of the Board of Selectmen may be taken to the Appeals Board by the WEF Permittee, Owner/operator or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Town Clerk within 30 days after the final action of the Board of Selectmen. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the Board of Selectmen shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the Board of Selectmen's determination.

Section 107 - Fees and Costs

- 107.1 **Preliminary Cost Agreement.** At the time an Application for a WEF Site Permit is filed with the Town, the Applicant shall execute for the benefit of the Town an agreement to pay and provide adequate surety guaranteeing payment of the cost of the investigation, review and processing of the Application, including without limitation by way of enumeration, legal, engineering, acoustical, planning, environmental, and staff administrative costs as provided in this Ordinance. The agreement shall provide for the establishment of an escrow account with a minimum of \$10,000.00 cash deposit to be provided by the Applicant to begin review under this Ordinance. The Town may use the funds in the escrow account in connection with the application review as allowed by this Ordinance. In the event that the cash deposit in escrow is insufficient to complete the review, the Town shall notify the Applicant that additional funds are necessary and of the amount reasonably believed necessary to complete the review, and the Applicant shall provide the additional funds. The Planning Board shall not begin processing, or in the case of where additional funds are requested, shall not continue processing, the Application until the preliminary cost agreement is approved and signed and until the required surety, or additional surety, and/or funds, are provided to the Town.
- 107.2 The application fee for a Site Permit shall consist of a base application fee of \$2,500.00, plus \$500.00 for every WT included in the project.

107.3 The application fee for an Operational License is \$1,000.

107.4 The annual fee for an Operational License is \$1000.00 per megawatt of rated capacity.

Section 108 - Expiration of Site Permit Approval and WEF Operational License

- 108.1 If on-site construction of a WEF is not significantly commenced within one year of the date of issue of a Site Permit, the Site Permit shall automatically lapse and become null and void. If an approved WEF is not completed within 30 months after a Site Permit is issued, then the Site Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, grant a one-time extension of up to six months for either start of construction or completion of construction provided such request is submitted prior to the lapse or expiration of the Site Permit. If an appeal should be filed, the time frame described above shall be suspended until the completion of the appeal process.
- 108.2 A WEF Operational License issued under this Ordinance shall expire five years after the date it is issued, unless earlier terminated. Early termination can include, but is not limited to nonpayment of the annual fee for Operational License or failure to comply with the requirements in Section 105.16.
- 108.3 A WEF Operational License shall be deemed totally or partially abandoned if all or any portion of the WEF has ceased for twelve consecutive months. An Operational License expires immediately upon abandonment of any portion of the WEF. Any portion of a WEF which has not operated for twelve consecutive months shall be deemed abandoned and the operational license for that portion of the WEF shall expire.
- 108.4 A WEF Operational License shall automatically terminate upon transfer of ownership or operation of the WEF. The proposed new owner or operator shall be required to obtain a new Operational License, which must be in place prior to the transfer of ownership or operation of the WEF.
- 108.5 A WEF Operational License shall automatically terminate upon any amendment to a Site Permit other than a minor change approved by the Planning Board in accordance with Section 105.2.2.

Section 109 - Violations, Complaints and Penalties

- 109.1 **Violations of This Ordinance.** It shall be unlawful to construct or operate any WEF or part thereof in violation of any provision of this Ordinance, a WEF Site Permit, or a WEF Operational License; any violation thereof is punishable, upon conviction, in accordance with 30-A M.R.S.A. § 4452(3), and shall include attorneys fees and a penalty to address economic benefit as provided in 30-A M.R.S.A. § 4452(3)(D) and (H). All fines assessed under this Ordinance shall inure to the benefit of the Town of Eddington. Each day a violation exists or continues shall constitute a separate offense.
- 109.2 **Complaints and Modification, Revocation or Suspension.** The Board of Selectmen shall retain continuing jurisdiction to modify, suspend or revoke all WEF Operational Licenses in accordance with this section. Such authority shall be in addition to the Town's authority to prosecute violations and take other enforcement action.
- 109.2.1 In this section, "violation" means a violation of this Ordinance, or a violation of a WEF Site Permit issued under this Ordinance, or a violation of a WEF Operational License.

109.2.2 Any resident of the Town, real property tax-payer to the Town, or Town official may file a written complaint with the Town Clerk alleging that a WEF Permittee, Owner/operator or Licensee has committed or is committing a violation. Such complaints shall be forwarded to the Planning Board.

109.2.3 The Planning Board shall preliminarily review the complaint. In connection with its preliminary review, the Planning Board may require the Code Enforcement Officer or other person or persons to conduct such investigations and make such reports as the Planning Board may direct. The Planning Board may request information from the WEF Permittee, Owner/operator and/or Licensee, the complainant, and any other person or entity to assist with its preliminary review.

109.2.4 Following its preliminary review, the Planning Board may:

109.2.4.1 Dismiss the complaint;

109.2.4.2 Refer the complaint to the Town attorney for prosecution; or

109.2.4.3 Conduct a public meeting to determine whether the alleged violation(s) have occurred, and what remedial action should be taken. Prior to such meeting, notice of the meeting shall be given to the WEF Permittee, Owner/operator, Licensee, as applicable, and the complainant. The WEF Permittee, Owner/operator, Licensee, as applicable, and the complainant, and any other person, may appear at the meeting and may offer testimony and other relevant evidence, and may be represented by any attorney. If the Planning Board concludes that violations have occurred, the Planning Board shall:

109.2.4.3.1 Impose conditions on the WEF Site Permit, Owner/operator and/or Licensee to the extent reasonably necessary to discontinue the violation(s) or avoid any recurrence thereof; or

109.2.4.3.2 . Recommend to the Board of Selectmen that the matter be referred to the Town's attorney for prosecution seeking that the WEF Site Permit and/or Operational License be suspended until such time as the WEF Permittee, Owner/operator and/or Licensee presents and implements a plan, satisfactory to the Planning Board that will discontinue the violation(s) or prevent any recurrence thereof, and meets such further conditions as the Planning Board deems appropriate to discontinue and prevent further violations; or

109.2.4.3.3 Recommend to the Board of Selectmen that the matter be referred to the Town's attorney for prosecution seeking that the WEF Site Permit and/or Operational License be revoked and that decommissioning of the WEF be directed, if the Planning Board concludes that no reasonable modification can be made to the WEF to discontinue or prevent violations; or

109.2.4.3.4 Refer the matter to the Board of Selectmen and Town's attorney for prosecution, subject to Planning Board and Board of Selectmen approval; or

109.2.4.3.5 Take no action, if the Planning Board concludes that no further action is needed to discontinue or prevent violations, and that prosecution is unwarranted.

109.2.4.4 Following any such hearing, the Planning Board's written decision shall be furnished to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and to the complainant.

109.2.4.5 An appeal from the decision of the Planning Board may be taken to the Appeals Board by the WEF Permittee, Owner/operator or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Town Clerk within 30 days after the final action of the Planning Board. The Town Clerk shall provide any appeal to the Appeals Board. The Appeals Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and the complainant. Given the complexity of this type of project, all appeals shall be considered as appellate procedures. The action of the Planning Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the Planning Board's determination.

109.2.4.6 An appeal from a decision of the Board of Appeals shall be made to Superior Court in accordance with M.R.Civ.P. 80B.

Section 110 - Maintenance, Amendments, and Miscellaneous Requirements

110.1 A WEF shall be constructed, operated, and maintained, and repaired in accordance with the approved Site Permit, Operational License, and this Ordinance. Where a standard or requirement is not provided by either this Ordinance, the WEF Site Permit or the WEF Operational License, the WEF Permittee and Licensee shall comply with Good Utility Practices.

110.2 All components of the Wind Turbine Project shall conform to relevant and applicable local, state and national building codes.

110.3 A WEF Permittee may apply to the Planning Board for changes to a WEF Site Permit or Operational License. The Application shall describe the requested change or changes. The Planning Board shall review the Application and determine what provisions of this Ordinance and Appendix will apply to the Application. The Application will then be processed in accordance with all provisions of this Ordinance deemed to be applicable by the Planning Board. The provisions of Section 107, together with all other instances where this Ordinance outlines financial obligations of the Applicant, Permittee, Owner/operator and Licensee shall apply to any Application for changes to a WEF Site Permit or Operational License. An Application for changes will be required for any significant modification to the approved WEF Permit, including, but not limited to: any change in the number of WTs; any change in WT height, location, design, or specification; or any substantive change to any required plan or insurance coverage.

110.4 The WEF Permittee, Owner/operator and/or Licensee, as applicable, shall notify the Town of any extraordinary event as soon as possible, and in no case more than 12 hours after the event. "Extraordinary events" shall include but not be limited to tower collapse, catastrophic turbine failure, fires, leakage of hazardous materials, unauthorized entry to the tower base, thrown

blade or hub, any injury to a Facility worker or other person that requires emergency medical treatment, or other event that impacts the health and safety of the Town or its residents.

- 110.5 Approval of a WEF Permit under this Ordinance does not exempt an Applicant from obtaining other applicable permits from the Town of Eddington, such as building, electrical, plumbing and Shoreland zoning permits, as applicable, or any applicable state or federal permit.

Section 111 - Severability; Conflicts with Other Ordinances, Laws, and Regulations; Appeal

- 111.1 If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or part thereof. The Town hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, phrase or part thereof even if any one or more sections, subsections, sentences, clauses, phrases or parts thereof may be declared invalid or unconstitutional.
- 111.2 Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or of any other Town Ordinance, or Federal or State of Maine rule, regulation or statute, the more restrictive provision shall apply.
- 111.3 Except as provided in Section 109.2.4.5 an aggrieved party may appeal a decision of the Planning Board to Superior Court in accordance with M.R.Civ.P. 80B.

Section 112 - Ethical Standards

112.1 Transparency, Public Participation and Highest Ethical Standards

All public deliberations and decisions regarding Wind Energy Facilities shall be conducted in an open, transparent manner that encourages the broadest public participation and adherence to the highest ethical standards.

112.2 Public Access

All deliberations concerning Wind Energy Facility Projects, whether in writing or conducted verbally, by the Planning Board, Board of Selectman, Appeals Board, and any other subcommittees or working groups of the afore mentioned bodies shall fully comply with the letter and spirit of State law regarding Freedom of Access pursuant to Title 1; Chapter 13; Subchapter 1. Specifically, all deliberations regarding Wind Energy Facilities between members of the Planning Board, Board of Selectmen, Appeals Boards and any subcommittees and working groups shall be conducted at public meetings for which notice has been duly given. Exceptions will be made only for: 1) executive sessions duly called in accordance with the Maine Freedom of Access Law; and 2) communicating the minimal information necessary to set up and facilitate public meetings. Minutes of deliberations and decisions concerning Wind Energy Facilities will be maintained and filed in the Eddington Town Office. Copies of all correspondence and e-mails will be made available to the public with the exception of those publicly identified and disclosed as being subject to “attorney-client privilege” by the Town

attorney. All documents, correspondence and e-mails generated by consultants on behalf of the Planning Board, the Board of Selectmen, Appeals Board, their subcommittees and working groups shall be part of the public record.

112.3 Conflicts of Interest

The process to develop and permit Wind Energy Facility Projects shall be governed by a strict ethical code for conflicts of interest. No elected or appointed Town official or Town employee, their immediate family members, or their employees, who has a conflict of interest shall be directly or indirectly involved in the planning process or decision-making process for Wind Energy Facility Projects. Conflicts of interest include, but are not limited to:

- 112.3.1 having right, title or interest in a Project Parcel;
- 112.3.2 having a financial arrangement with an individual or company which derives income from the development of wind energy, including a signed Mitigation Waiver with financial remuneration;
- 112.3.3 serving as a paid representative of an individual or company which derives income from the development of wind energy, or a written or verbal promise for future employment or contracts from a wind development company;
- 112.3.4 being directly or indirectly affiliated as an Applicant with a pending Application for a Wind Energy Facility Project;
- 112.3.5 knowing that there is a substantial opportunity to accept bids, receive remuneration, or employment valued at greater than \$1,000 on behalf a wind development company.

Individuals with a conflict of interest must identify the conflict of interest and recuse themselves from all direct and indirect planning and decision-making regarding Wind Energy Facility Projects, with the exception of voting and debating as a private citizen at any public meeting and public hearings.

Section 113 - Effective Date

This Ordinance shall take effect immediately upon passage.

Section 114 Sound Measurements and Studies

114.1 Introduction

The purpose of this section is to describe the requirements for pre-construction and post-construction sound and vibration monitoring. Determining the sound and vibration impacts is a highly technical undertaking and requires a serious effort in order to collect reliable and meaningful data for both the public and decision-makers. This protocol is based in part on criteria published in American National Standards S12.9 – Quantities and Procedures for Description and Measurement of Environmental Sound, and S12.18 for the measurement of sound pressure level outdoors. Where there are differences between the procedures and definitions of this document and ANSI standards, this document shall apply. Where a

standard's requirements may conflict with other standards or with this document, the most stringent requirements shall apply. IEC 61400-11 procedures are not suitable for enforcement of these requirements except for the presence of tones.

114.2 Instrumentation

All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter with one-third octave band analyzer with frequency range from 6.3 Hz to 20k Hz and capability to simultaneously measure dBA LN and dBC LN. The instrument must also be capable of measuring low level background sounds down to 20 dBA, and must conform, at a minimum, to the requirements of ANSI S1.43-1997. Measurements shall only be made with the instrument manufacturer's approved wind screen. A compatible acoustic field calibrator is required with certified ± 0.2 dB accuracy. Portable meteorological measurement requirements are outlined in ANSI S12.9 Part 3 and are required to be located within 5 meters of the sound measuring microphone. The microphone shall be located at a height of 1.2 to 1.5 meters for all tests unless circumstances require a different measurement position. In that case, the reasons shall be documented and include any adjustments needed to make the results correspond to the preferred measurement location.

114.3 Pre-construction Sound Measurement and Study

An assessment of the sound environment in the area surrounding the proposed WEF is necessary in order to predict the impact of a proposed project. The following guidelines shall be used in developing an estimate of an area's pre-construction sound environment. All testing is to be performed by a Qualified Independent Acoustical Consultant chosen by the Planning Board. The Applicant may file objections detailing any concerns it may have with the Planning Board's selection. These concerns will be addressed in the study. Objections must be filed prior to the start of the sound study. Test results and the study will be reported to the Planning Board.

114.3.1 Location of Measurement Points for Pre-construction Sound Measurement

Sites to be used as Measurement Points shall be selected as follows.

114.3.1.1 Sites should not be located near large objects, such as buildings. The distance to buildings or other structures should be twice the largest dimension of the structure, if possible.

114.3.1.2 The sites shall include those locations anticipated to have the highest sound emissions of the proposed WEF.

114.3.1.3 The sites shall include those locations where the background soundscape is quietest.

114.3.1.4 The sites shall include locations along the property line(s) of Project Parcel(s) and Participating Parcel(s). The intent is to anticipate the locations along the property line(s) that will receive the highest sound emissions. The Applicant and the owner of relevant Project Parcel(s) and Participating Parcel(s) must provide access to allow measurements to be taken. The Permit will not be approved if such access is refused. Mitigation Waivers for any parcel(s) do not eliminate the requirement that access be provided.

114.3.1.5 The sites shall include locations selected to represent the sound level at all Sensitive Receptors located within 1.5 miles of the boundaries of the proposed WEF.

114.3.1.6 Sites shall be located with the assistance of the Planning Board and property owner(s).

114.3.1.7 Additional sites may be chosen by the Consultant conducting the study if these sites will improve the accuracy of the study's conclusions.

114.3.2 Conditions under which Measurements are to be Taken

At each Measurement Point, information will be gathered under the conditions specified.

114.3.2.1 The duration of each measurement shall be ten continuous minutes for each quantity listed in Section 114.3.3.1, below, at each location. Longer-term tests are not appropriate. In most cases, it should be possible to derive all values described in Section 114.3.3.1 from a single ten minute sample. The duration must include at least six minutes that are not affected by transient sounds from near-by and non-natural sources. Multiple ten-minute samples over longer periods may be used to improve the reliability, in which case the quietest ten-minute sample will be used.

114.3.2.2 Measurements shall be taken during the times of day and night expected to have the quietest background sound level, as appropriate for the site. The preferred nighttime testing time for background sound levels is from 10 pm until 4 am. If circumstances indicate that samples should be taken at a different time, then the test may be conducted at an alternate time, if approved by the Planning Board.

114.3.2.3 Measurements must be made on a week-day of a non-holiday week. Week-end measurements may be taken at selected sites where there are weekend activities that may be affected by WT sound.

114.3.2.4 Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Ordinance.

114.3.2.5 Measurements taken when the wind speeds exceed two meters per second (4.5 miles per hour) at the microphone location are not valid. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.

114.3.2.6 All elements of any pre-existing WEF, whether operated by the current Applicant or some other party, must be turned off for the duration of background sound level measurements. Willingness of the Applicant to abide by this condition for any future Applicants is a requirement of Permit approval.

114.3.3 Quantities to be Measured

At each Measurement Point, the following information will be gathered, at a minimum, and provided as part of the Study.

114.3.3.1 L_{eq} , L_{10} and L_{90} , each to be given in dBA and in dBC. L_{90} is the value for the quietest continuous minute of a continuous ten minute period, L_{10} is the value for the loudest continuous minute of a continuous ten minute period, and L_{eq} is the average value over the entire ten-minute period. To distinguish these values from their post-construction counterparts, these values may be denoted L_{eq} (pre), L_{10} (pre) and L_{90} (pre), with an “A” or a “C”, depending on the weight. For instance, L_{10} A(pre) means the A-weighted preconstruction measurement of L_{10} . The ten minute period shall be considered invalid if either

- i. L_{10} A minus L_{90} A is greater than 10 dBA; or
- ii. L_{10} C minus L_{90} C is greater than 15 dBC.

114.3.3.2 One-third octave band sound pressure levels, averaged over each ten minute sample.

114.3.3.3 A narrative description of any intermittent sounds registered during each measurement.

114.3.3.4 A narrative description of the steady sounds that form the background soundscape.

114.3.3.5 Digital recording of all data, sampled at a rate of at least 44,100 Hz with signed 16 bit Pulse Code Modulation, as described in IEC 60908, and measured using a recording instrument meeting ANSI S1.4. This may be augmented with video recordings.

114.3.3.6 Wind speed and direction, humidity and temperature, together with the corresponding information from the nearest ten meter weather reporting station.

114.3.4 Information to be supplied by the Applicant

The Applicant must provide the following information.

114.3.4.1 The make and model of all WT units to be installed in the WEF.

114.3.4.2 The sound power of all WT units to be installed in the WEF, expressed in watts, and abbreviated as L_w . This information must have been determined for the WT manufacturer under laboratory conditions specified by IEC 61400-11, and provided to the Applicant. It cannot be assumed that these values represent the highest sound output for any operating condition; they reflect the operating conditions necessary to meet the IEC 61400-11 requirements. The lowest

frequency for acoustic power (L_w) required in IEC 61400-11 is 50 Hz. This Ordinance requires wind turbine certified acoustic power (L_w) levels at rated load for the total frequency range from 6.3 Hz to 10,000 Hz, in one-third octave frequency bands tabulated to the nearest 0.1 dB.

114.3.4.3 Any additional information that the Consultant reasonably deems necessary to fulfill the requirements in Section 114.3.5, below.

114.3.4.4 The burden is on the Applicant to provide sufficient information to establish that operation of the WEF will meet the requirements of this Ordinance.

114.3.5 Required Elements of the Study

The purpose of the study is, first, to establish a consistent and scientifically sound procedure for evaluating existing background levels of audible and low-frequency sound; and, second, to determine whether the proposed WEF will meet the conditions set forth in Section 105. The characteristics of the proposed WEF and the features of the surrounding environment will influence the design of the study. Site layout, types of WES/WT selected and the existence of other significant local audible and low frequency sound sources and Sensitive Receptors should be taken into consideration.

Determining whether the proposed WEF will meet the conditions set forth in this Ordinance requires that the Consultant predict the post-construction sound level of the proposed WEF. At each Measurement Point, the Consultant must estimate values for L_{90} , L_{10} and L_{eq} , both A-weighted and C-weighted, for a total of six values at each Measurement Point. These pre-construction estimates of the post-construction sound level will be denoted $L_{90}(\text{post})$, $L_{10}(\text{post})$ and $L_{eq}(\text{post})$, each of which may have an “A” or a “C” to indicate the method of weighting.

In determining these post-construction values, the Consultant should assume worst-case conditions for producing sound emissions. The assumed wind speed shall be the speed that results in the worst-case (i.e., highest) dBA and dBC sound levels in the area surrounding the WEF. The wind direction shall be taken to be the dominant wind direction in each season. If other wind directions may cause levels to exceed those of the predominant wind direction at Sensitive Receptors, then these levels and conditions shall be considered in the Study. To accommodate enforcement under weather conditions where there is a significant difference between the wind speed at ground-level and at hub-height, any predictive model shall assume that the winds at hub-height are sufficient for the highest sound emission, even though the enforcement tests will be with ground-level wind speeds of ten miles per hour or less.

In the event that there are several pending Permit Applications, or preexisting WEF(s), the estimated post-construction values shall be the combined predicted output of all proposed or existing WEFs. All of these WEFs will be treated using the same methodology to arrive at combined value for the predicted post-construction sound level.

Each additional WEF adds to the sound-burden of a community. If the contribution to sound levels of a proposed WEF, together with the sound generated by pre-existing

WEFs would raise sound levels beyond the limits of this Ordinance, then the proposed WEF will not be approved.

At a minimum, the study shall include the following information, and meet the following requirements.

- 114.3.5.1 The study shall address conditions in all four seasons, and it is required that measurements be taken at each Measurement Point at least once in each of the four seasons. The quietest period of each season should be chosen for measurement.
- 114.3.5.2 The study may be based on computer models, but shall include a description of all assumptions made in the model's construction and algorithms. This description must be sufficient to allow an independent third party to verify the conclusions of the study. If the model does not consider the effects of wind direction, worst-case weather, operating conditions, geography of the terrain, and/or the effect of reinforcement from coherent sounds or tones from the turbines, then these shortcomings must be identified and other means used to adjust the model's output to account for these factors.
- 114.3.5.3 The minimum and maximum distance between any Measurement Points.
- 114.3.5.4 The distance between each Measurement Point and any significant local sound sources.
- 114.3.5.5 The predicted sound pressure levels for each of the 1/1 octave bands as un-weighted dB in tabular form from 6.3 Hz to 10,000 Hz. This should be given for a set of locations throughout the study area deemed by the Consultant and Planning Board to be representative.
- 114.3.5.6 Eight iso-contour maps shall be included, two for each season, showing the level of pre-construction background sound, as given by $L_{90}A(\text{pre})$ and $L_{90}C(\text{pre})$. These maps shall extend to a minimum of 1.5 miles beyond the perimeter of the project boundary, and may be extended to a distance of more than 1.5 miles at the discretion of the Planning Board. The scale shall be such as to allow individual Measurement Points and Sensitive Receptors to be distinguished.
- 114.3.5.7 Eight iso-contour maps shall be included, two for each season, showing the level of post-construction sound, as given by $L_{eq}A(\text{post})$ and $L_{eq}C(\text{post})$. These maps shall cover the same area and use the same scale as those in 114.3.5.6.
- 114.3.5.8 Eight iso-contour maps shall be included, two for each season. Four of these maps shall show the value of $L_{eq}A(\text{post})$ minus $L_{90}A(\text{pre})$, one map for each season; and four maps shall show $L_{eq}C(\text{post})$ minus $L_{90}A(\text{pre})$, one map for each season. These maps shall cover the same area and use the same scale as those in 114.3.5.6.

114.3.5.9 All maps shall use of contour interval of no more than 5 dB, and shall extend out, at a minimum, to distance sufficient to show the 30 dBA or 40 dBC boundary, whichever is greater.

114.3.5.10 Maps shall show the location of Measurement Points, sources of any significant local non-WEF sound or vibration, and the location of all Sensitive Receptors, including, but not limited to, schools, daycare centers, hospitals, residences, places of worship, and elderly care facilities.

114.3.5.11. A map shall be included that shows the layout of the project area, including topography, the project boundary lines and property lines.

114.3.5.12 Any additional information that the Consultant and Planning Board reasonably believe will aid in making a more informed decision as to whether the proposed WEF will meet the requirements of this Ordinance.

114.4 Post-construction Sound Measurement and Study

Post-construction sound studies require two sets of measurements. One set of measurements shall be gathered using the same methodology as outlined in Section 114.3, above. These measurements may be referred to as the “WEF-Off Measurements.” The second set of measurements shall be gathered as set forth in this Section 114.4 and may be referred to as the “WEF-On Measurements”. The WEF-On Measurement Points shall be the same as those used as WEF-Off Measurement Points. All testing is to be performed by a Qualified Independent Acoustical Consultant chosen by the Planning Board.

At the discretion of the Planning Board, the pre-construction sound measurements, taken in Section 114.3, can be substituted for the WEF-Off Measurements if a random sampling of 10% of the pre-construction study sites shows that $L_{90}A$ and $L_{90}C$ levels have not changed by more than ± 5 dB when measured under the same meteorological conditions.

If there have been any complaints about WEF sound or low frequency sound by any resident of an occupied dwelling, then a location or locations on that property will be included in the WEF-Off and WEF-On Measurement Points.

This location(s) will be selected jointly by the complainant and Consultant. In addition, the Consultant and Planning Board may include additional Measurement Points where they reasonably believe that doing so will improve the accuracy of the study.

The WEF-On Measurements shall be taken under the conditions listed below, and the quantities measured shall be as specified in Section 114.3.3, above.

114.4.1 The duration of each measurement shall be ten continuous minutes for each quantity listed in Section 114.3.3.1, above, at each location. The duration must include at least six minutes that are not affected by transient sounds from near-by, non-natural, non-WEF sources. Multiple ten-minute samples over longer periods may be used to improve the reliability.

114.4.2 Measurements must be taken at 1.2 to 1.5 meters above the ground and at least 15 feet from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Ordinance.

114.4.3 Measurements must be taken with the wind speed at hub-height sufficient for full operating capacity, and at two meters per second (4.5 miles per hour) or less at the microphone location. Conditions should reflect the loudest sound emissions from the WEF. For purposes of enforcement, the wind speed and direction at the WT blade height shall be selected to reproduce the conditions leading to the enforcement action. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.

The Consultant shall provide a study including the same information and meeting the same requirements as the pre-construction sound study described in Section 114.3.5, except that the values for L_{90} (post), L_{10} (post) and L_{eq} (post) (both A-weighted and C-weighted) shall be taken to be the measured WEF-On values.

For the purposes of enforcement, the post-construction values of L_{90} A(post), L_{90} C(post), L_{10} A(post), L_{10} C(post), L_{eq} A(post) and L_{eq} C(post) are defined to be equal to the measured WEF-On value of each quantity.

Section 115 REFERENCES

115.1 ANSI/ASA S12.9-1993/Part 3 (R2008) - American National Standard Quantities and Procedures for Description and Measurement of Environmental Sound, Part 3: Short-Term Measurements with an Observer Present.

This standard is the second in a series of parts concerning description and measurement of outdoor environmental sound. The standard describes recommended procedures for measurement of short-term, time-average environmental sound outdoors at one or more locations in a community for environmental assessment or planning for compatible land uses and for other purposes such as demonstrating compliance with a regulation. These measurements are distinguished by the requirement to have an observer present. Sound may be produced by one or more separate, distributed sources of sound such as a highway, factory, or airport. Methods are given to correct the measured levels for the influence of background sound. For the purposes of this Ordinance the options that are provided in ANSI S12.9-Part 3 (2008) shall be applied with the additional following requirements:

Wind Turbine Siting Acoustical Measurements ANSI S12.9 Part 3 Selection of options and other requirements

4.2 background sound: Use definition (1) 'long-term

4.3 long-term background sound: The L_{90} excludes short term background sounds

4.4 basic measurement period: Ten (10) minutes L_{90} (10 min)

4.5 Sound Measuring Instrument: Type 1 integrating meeting ANSI S1.43

6.5 Windscreen: Required

7.1 Long-term background sound

7.2 Data collection Methods: Second method Observed samples to avoid contamination by short term sounds (purpose: to avoid loss of statistical data)

8 Source(s) Data Collection: All requirements in ANSI S12.18 Method #2 precision to the extent possible while still permitting testing of the conditions that lead to complaints.

8.3(a) All meteorological observations required at both (not either) microphone and nearest 10m weather reporting station.

8.3(b) For a 10 minute sound measurement to be valid the wind velocity shall not exceed 2m/s (4.5 mph) measured less than 5m from the microphone. Compliance sound measurements shall not be taken when winds exceed 2m/s.

8.3(c) In addition to the required acoustic calibration checks the sound measuring instrument internal noise floor must also be checked at the end of each series of ten minute measurements and no less frequently than once per day. Insert the microphone into the acoustic calibrator with the calibrator signal off. Record the observed dBA and dBC reading from the sound level meter or other recording instrument to determine an approximation of the instrument self noise. This calibrator-covered microphone must demonstrate that the results of this test are at least 5 dB below the immediately previous ten minute acoustic test results for the acoustic data to be valid. This test is necessary to detect undesired increase in the microphone and sound level meter internal self noise. As a precaution sound measuring instrumentation should be removed from any air-conditioned space at least an hour before use. Nighttime measurements are often performed very near the dew point. Minor moisture condensation inside a microphone or sound level meter can increase the instrument self noise and void the data.

8.4 to the end: The remaining sections of ANSI S 12.9 Part 3 Standard do not apply.

115.2 ANSI S12.18-1994 (R2004) American National Standard Procedures for Outdoor Measurement of Sound Pressure Level

This American National Standard describes procedures for the measurement of sound pressure levels in the outdoor environment, considering the effects of the ground, the effects of refraction due to wind and temperature gradients, and the effects due to turbulence. This standard is focused on measurement of sound pressure levels produced by specific sources outdoors. The measured sound pressure levels can be used to calculate sound pressure levels at other distances from the source or to extrapolate to other environmental conditions or to assess compliance with regulation. This standard describes two methods to measure sound pressure levels outdoors. METHOD No. 1: general method; outlines conditions for routine measurements. METHOD No. 2: precision method; describes strict conditions for more accurate measurements. This standard assumes the measurement of A-weighted sound pressure level or time-averaged sound pressure level or octave, 1/3-octave or narrow-band sound pressure level, but does not preclude determination of other sound descriptors.

115.3 ANSI S1.43-1997(R2007) American National Standard Specifications for Integrating Averaging Sound Level Meters

This Standard describes instruments for the measurement of frequency-weighted and time-average sound pressure levels. Optionally, sound exposure levels may be measured. This standard is consistent with the relevant requirements of ANSI S1.4-1983(R 1997) American National Standard Specification for Sound Level Meters, but specifies additional characteristics that are necessary to measure the time-average sound pressure level of steady, intermittent, fluctuating, and impulsive sounds.

115.4 ANSI S1.11-2004 American National Standard 'Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters'

This standard provides performance requirements for analog, sampled-data, and digital implementations of bandpass filters that comprise a filter set or spectrum analyzer for acoustical measurements. It super-cedes ANSI S1.11-1986 (R1998) American National Standard Specification for Octave-Band and Fractional-Octave-Band Analog and Digital Filters, and is a counterpart to International Standard IEC 61260:1995 Electro acoustics - Octave-Band and Fractional-Octave-Band Filters. Significant changes from ANSI S1.11-1986 have been adopted in order to conform to most of the specifications of IEC 61260:1995. This standard differs from IEC 61260:1995 in three ways: (1) the test methods of IEC 61260 clauses 5 is moved to an informative annex, (2) the term 'band number', not present in IEC 61260, is used as in ANSI S1.11-1986, (3) references to American National Standards are incorporated, and (4) minor editorial and style differences are incorporated.

115.5 ANSI S1.400-2006 American National Standard Specifications and Verification Procedures for Sound Calibrators

IEC 60908 Audio Recording – Compact disk digital audio system

Applies to a pre-recorded optical reflective digital audio disc system. Defines those parameters of compact discs that affect interchangeability between discs and players. Is also intended as a reference for manufacturers wishing to produce discs and/or players that conform to the system described.

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-05

IEC 61400-11

Second edition 2002-12, Amendment 1 2006-0

Wind turbine generator systems -Part 11: Acoustic noise measurement techniques

The purpose of this part of IEC 61400 is to provide a uniform methodology that will ensure consistency and accuracy in the measurement and analysis of acoustical emissions by wind turbine generator systems. The standard has been prepared with the anticipation that it would be applied by:

- the wind turbine manufacturer striving to meet well defined acoustic emission performance requirements and/or a possible declaration system;
- the wind turbine purchaser in specifying such performance requirements;
- the wind turbine operator who may be required to verify that stated, or required, acoustic performance specifications are met for new or refurbished units;
- the wind turbine planner or regulator who must be able to accurately and fairly define acoustical emission characteristics of a wind turbine in response to environmental regulations or permit requirements for new or modified installations.

This standard provides guidance in the measurement, analysis and reporting of complex acoustic emissions from wind turbine generator systems. The standard will benefit those parties involved in the manufacture, installation, planning and permitting, operation, utilization, and regulation of wind turbines. The measurement and analysis techniques recommended in this document should be applied by all parties to insure that continuing development and operation of wind turbines is carried out in an atmosphere of consistent and accurate communication relative to environmental concerns. This standard presents measurement and reporting procedures expected to provide accurate results that can be replicated by others.

Town of Eddington Small Scale Wind Energy Facility Ordinance

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TOWN OF EDDINGTON

SMALL SCALE WIND ENERGY FACILITY ORDINANCE

Section 201.0 - Title

This Ordinance shall be known as the Small Scale Wind Energy Facility Ordinance for Eddington.

Section 202.0 - Authority

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

Section 203.0 - Purpose

The purpose of the Ordinance is to provide for the construction and operation of Small Scale Wind Energy Facilities in Eddington, subject to reasonable conditions that will protect the public health, safety, and welfare.

Section 204.0 - Definitions

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

Approved Residential Subdivision means a residential subdivision for which all-applicable land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Associated Facilities means elements of a Small Scale Wind Energy Facility other than its Generating Facilities that are necessary to the proper operation and maintenance of the Small Scale Wind Energy Facility, including but not limited to buildings, access roads, Generator Lead Lines and substations.

DEP Certification means a certification issued by the Department of Environmental Protection pursuant to 35-A M.R.S. § 3456 for a Wind Energy Development.

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

Generator Lead Line means a "generator interconnection transmission facility" as defined by 35-A M.R.S. § 3132 (1-B).

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

Historic Site means any site, structure, district or archaeological site which has been officially included on the National Register of Historic Places and/or on the Maine Historic Resource Inventory, or which is established by qualified testimony as being of historic significance.

Locally-Designated Passive Recreation Area means any site or area designated by a municipality for passive recreation that is open and maintained for public use and which: a) has fixed boundaries, b) is owned in fee simple by a municipality or is accessible by virtue of public easement, c) is identified and described in a local comprehensive plan and, d) has been identified and designated at least nine months prior to the submission of the Applicant's Small Scale Wind Energy Facility permit application.

Municipal Reviewing Authority means the municipal planning board, agency or office, or if none, the municipal officers.

Nacelle means the frame and housing at the top of the Tower that encloses the gearbox generator, blade hub and other parts.

Non-Participating Landowner means any landowner, other than a Participating Landowner whose land is located within Eddington.

Occupied Building or Structure means a building that is a residence, school, hospital, house of worship, public library, hotel, motel, B & B, nursing home, seasonal residence, daycare centers, elder care facilities, places of seated assemblage, nonagricultural businesses or other building that is occupied or in use as a primary residence or is customarily frequented by the public or has been legally permitted for construction at the time when the permit application is submitted.

Participating Landowner means one or more Persons that hold title in fee or a leasehold interest with sublease rights to property on which Generating Facilities or Associated Facilities are proposed to be located pursuant to an agreement with the Applicant or an entity that has entered into an appropriate agreement with the Applicant allowing the Applicant to demonstrate the requisite right, title and interest in such property.

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

Planned Residence means a Residence for which all applicable building and land use permits have been issued, provided that the time for beginning construction under such permits has not expired.

Protected Location means any location that is:

- 1) accessible by foot, on a parcel of land owned by a Non-Participating Landowner containing a residence or planned residence, or an approved residential subdivision, house of worship, academic school, college, library, duly licensed hospital or nursing home near the development site at the time an application for a Small Scale Wind Energy Facility is submitted under this Ordinance;
- 2) within a State Park, Baxter State Park, a National Park, a nature preserve owned by a land trust, the Maine Audubon Society or the Maine chapter of the Nature Conservancy, the Appalachian Trail, the Moosehorn National Wildlife refuge, a federally designated wilderness area, a state wilderness area designated by statute, a municipal park or a locally-designated passive recreation area, or any location within consolidated public reserve lands designated by rule by the Bureau of Public Lands as a Protected Location, or;
- 3) a hotel, motel, campsite or duly licensed campground that the municipal authority responsible for review and approval of the pending application under 209.1 has designated a Protected Location after making a determination that the health and welfare of the guests or the economic viability of the establishment will be unreasonably impacted by noise in excess of that allowed under section 212.1.3(b).

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

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

Shadow Flicker means alternating changes in light intensity caused by the movement of Wind Turbine blades casting shadows on the ground or a stationary object.

Short Duration Repetitive Sounds means a sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development and are foreseeable.

Sight Line Representation means a profile drawing showing prominent features, including but not limited to topography, buildings, and trees, along and in relation to a line of sight extending from an observer's eye to the lowest point visible on a proposed Tower.

Significant Wildlife Habitat means areas identified on the latest Beginning With Habitat map series produced by the Maine Department of Inland Fisheries and Wildlife, and any other area described in other definitions, maps or datasets as provided by MDIFW

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

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

Turbine Height means the distance measured from the surface of the Tower foundation to the highest point of any turbine rotor blade measured at the highest arc of the blade.

Small Scale Wind Energy Facility means a facility that uses one or more Wind Turbines to convert wind energy to electrical energy. A Small Scale Wind Energy Facility includes Generating Facilities and Associated Facilities.

Small Scale Wind Energy Facility, Type 1A means a Small Scale Wind Energy Facility having a maximum rated capacity of less than 100kW, a maximum of one Wind Turbine and a maximum Turbine Height of 80 feet.

Small Scale Wind Energy Facility, Type 1B means a Small Scale Wind Energy Facility having a maximum aggregate rated capacity of less than 100kW and either more than one Wind Turbine, or one or more Wind Turbines with a Turbine Height greater than 80 feet.

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

Section 205.0 - Applicability

- 205.1 This Ordinance applies to any Small Scale Wind Energy Facility Type 1A or Type 1B proposed for construction in Eddington after the effective date of this Ordinance. This Ordinance does not apply to Associated Facilities unless the Generating Facilities are located within Eddington in which case this Ordinance applies to both the Generating Facilities and the Associated Facilities.

205.2 A Small Scale Wind Energy Facility that is the subject of an application determined to be complete by the Planning Board or the Code Enforcement Officer prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance; provided that any physical modifications after the effective date of the Ordinance shall be subject to the permitting requirements of Section 209.2.

Section 206.0 - Conflict and Severability

206.1 If there is a conflict between provisions in this Ordinance, the more stringent shall apply. If there is a conflict between a provision in this Ordinance and that of another Eddington ordinance, the provision of this Ordinance shall apply.

206.2 The invalidity of any part of this Ordinance shall not invalidate any other part of this ordinance.

Section 207.0 - Effective Date

This Ordinance becomes effective on _____.

Section 208.0 - Classification of Wind Energy Facilities

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

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

Facility Type	Aggregate Capacity	Turbine Height	Max. # of Turbines	DEP Site Location Permit Required	Local Review and Approval
1A	<100 kW	≤ 80'	1	If Applicable	Code Enforcement Officer
1B	<100 kW	> 80'	Not Limited	If Applicable	Planning Board

Section 209.0 - Administration

209.1 Review and Approval Authority

209.1.1 The Code Enforcement Officer is authorized to review all applications for Type 1A Wind Energy Facilities pursuant to section 211.0, and may approve, deny or approve such applications with conditions in accordance with the standards of the Ordinance.

209.1.2 The Planning Board is authorized to review all applications for Type 1B Wind Energy Facilities and may approve, deny or approve such applications with conditions in accordance with this Ordinance.

209.2 Permit Required

209.2.1 No Small Scale Wind Energy Facility shall be constructed or located within Eddington without a permit issued in accordance with this Ordinance.

209.2.2 Any physical modification to an existing Small Scale Wind Energy Facility that materially alters the location or increases the area of development on the site or that increases the Turbine Height, or changes rated capacity, or the level of sound emissions of any Wind Turbine shall require a permit modification under this Ordinance. Like-kind replacements and routine maintenance and repairs shall not require a permit modification.

209.3 Permit Applications

209.3.1. Application Components. A Small Scale Wind Energy Facility permit application shall consist of the application form, application fee, and supporting documents, as described below:

209.3.1.a. Application Forms. The municipality shall provide the application form which shall be signed by: 1) a Person with right, title and interest in the subject property or; 2) a Person having written authorization from a Person with right, title and interest in the subject property. The signature shall be dated and the signatory shall certify that the information in the application is complete and correct and that the proposed facility will be constructed and operated in accordance with the standards of this ordinance and all approval and permit conditions, if any.

209.3.1.b. Application Fees. Application fees shall be assessed and paid upon submission of the application in accordance with Appendix A of this Ordinance.

209.3.1.c. Supporting Documents. The application shall include all additional documents necessary to satisfy the applicable submission requirements under section 210 of this Ordinance.

209.3.2. Application Submission. The Applicant shall submit its application for a Small Scale Wind Energy Facility permit to the Code Enforcement Officer who shall note on the application the date on which it was received.

209.3.3. Changes to a Pending Application

- 209.3.3.a. The Applicant shall promptly notify the municipal entity responsible for review and approval of a pending application under section 209.1 of any changes the Applicant proposes to make to information contained in the application.
- 209.3.3.b. If changes are proposed to a pending application after a public hearing has been held, the Planning Board may consider those changes and continue with the review and approval process without a renewed public hearing if it determines that the changes do not materially alter the application. If the Planning Board determines that the proposed changes do materially alter the application it shall schedule and conduct another public hearing within 30 days of that determination. In making its determination, the Planning Board shall consider whether the proposed changes involve potential adverse effects different than or in addition to those addressed in the initial application.

209.4 Permit Application Procedures

209.4.1. Type 1A Small Scale Wind Energy Facility Application

- 209.4.1.a. Within 10 days after receiving an application, the Code Enforcement Officer shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Code Enforcement Officer may waive any submission requirement if the Code Enforcement Officer issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.
- 209.4.1.b. Within 30 days after determining the application to be complete, the Code Enforcement Officer shall issue a written order: 1) denying approval of the proposed Small Scale Wind Energy Facility, 2) granting approval of the proposed Small Scale Wind Energy Facility or, 3) granting approval of the proposed Small Scale Wind Energy Facility with conditions. In making the decision, the Code Enforcement Officer shall make findings on whether the proposed Small Scale Wind Energy Facility meets the applicable criteria described in sections 212 and 213.
- 209.4.1.c. With the agreement of the applicant, the Code Enforcement Officer may extend the procedural time frames of this section.

209.4.2. Type 1B Small Scale Wind Energy Facility Applications

- 209.4.2.a. The Applicant is strongly encouraged to meet with the Code Enforcement Officer before submitting an application. At this pre-application meeting, the Code Enforcement Officer will explain the Ordinance's provisions, application forms, and

submission requirements. The Applicant should provide photos of the proposed site and written descriptions of the proposed facility and the proposed site, including its location and lot area.

209.4.2.b. An application shall be eligible for consideration at a regularly-scheduled meeting of the Planning Board only if the applicant submits it at least 14 days prior to the meeting.

209.4.2.c. Within 30 days after receipt of the application by the Code Enforcement Officer , the Planning Board shall notify the Applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application. The Planning Board may waive any submission requirement if it issues a written finding that, due to special circumstances of the application, adherence to that requirement is not necessary to determine compliance with the standards of this Ordinance.

209.4.2.d. The Planning Board may decide to hold a public hearing for a Type 1B Small Scale Wind Energy Facility application. If it decides to hold a public hearing for a Type 1B application, the Planning Board shall hold that hearing within 30 days after determining that application is complete.

209.4.2.e. Within 60 days after determining that an application for a Type 1B Small Scale Wind Energy Facility is complete, the Planning Board shall issue a written order: 1) denying approval of the proposed Small Scale Wind Energy Facility, 2) granting approval of the proposed Small Scale Wind Energy Facility or, 3) granting approval of the proposed Small Scale Wind Energy Facility with conditions. In making its decision, the Planning Board shall make findings on whether the proposed Small Scale Wind Energy Facility meets the applicable criteria described in sections 212, 213, and 214.

209.4.2.f. With the agreement of the applicant, the Planning Board may extend the procedural time frames of this section.

Table 2:
Procedural Time Frames

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

¹ days after receipt of the application by the CEO

² days after the application is determined to be complete

209.5 Notice of Meetings

Ten days prior to any meeting at which an application for a Type 1B Small Scale Wind Energy Facility is to be considered, the Planning Board shall send notice by first class mail, to the applicant and all owners of property within 500' of the property on which the Small Scale Wind Energy Facility is proposed to be located. The notice shall state the date, time and place of the meeting and the proposed location and the classification of the proposed Small Scale Wind Energy Facility.

209.6 Public Hearings

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

209.6.1 Published at least once in a newspaper having general circulation within the municipality. The date of the first publication shall be at least 10 days before the hearing.

209.6.2 Mailed by first class mail to the Applicant and to owners of property within 500 feet of the property on which the Small Scale Wind Energy Facility is proposed to be located, at least 10 days before the public hearing. The Planning Board shall maintain a list of property owners to whom notice is mailed in the application file. Failure of any of these property owners to receive a notice shall not invalidate the public hearing, nor shall it require the Planning Board to schedule another hearing.

209.7 Professional Services

In reviewing the application for compliance with this Ordinance, the Planning Board may choose to retain professional services, including but not limited to those of an attorney or consultant, to verify information presented by the Applicant. The attorney or consultant shall first estimate the reasonable cost of such review and the Applicant shall deposit, with the municipality, the full estimated cost, which the municipality shall place in an escrow account. The municipality shall pay the attorney or consultant from the escrow account and reimburse the Applicant if funds remain after payment. (Required for Type 1B applications only.)

209.8 Expiration of Permits

If on-site construction of a Small Scale Wind Energy Facility is not significantly commenced within one year of the date of issue of a Site Permit, the Site Permit shall automatically lapse and become null and void. If an approved Small Scale Wind Energy Facility is not completed within 30 months after a Site Permit is issued, then the Site Permit shall expire, and the Applicant must reapply. The Planning Board may, for good cause shown, grant a one-time extension of up to six months for either start of construction or completion of construction

provided such request is submitted prior to the lapse or expiration of the Site Permit. If a permit for a Type 1A or Type 1B Small Scale Wind Energy Facility expires, the Applicant shall implement pertinent provisions of the approved decommissioning plan. Upon the Applicant's written request, the Planning Board may extend either or both expiration time limits by up to six months. The appeal process will stop the time clock for commencing and completing the facility.

209.9 Access

The Code Enforcement Officer shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents directly related to the design, construction and operation of the facility.

209.10 Enforcement

209.10.1 It shall be unlawful for any Person to violate or fail to comply with or take any action that is contrary to the terms of the Ordinance, or to violate or fail to comply with any permit issued under the Ordinance, or to cause another to violate or fail to comply or take any action which is contrary to the terms of the Ordinance or any permit under the Ordinance.

209.10.2 If the Code Enforcement Officer or other Person charged with enforcement of municipal laws determines that a violation of the Ordinance or the permit has occurred, the Code Enforcement Officer shall provide written notice to any Person alleged to be in violation of this Ordinance or permit. If the alleged violation does not pose an immediate threat to public health or safety, the Code Enforcement Officer and the alleged violator shall engage in good faith negotiations to resolve the alleged violation. Such negotiations shall be conducted within thirty (30) days of the notice of violation and, with the consent of the alleged violator, may be extended.

209.10.3 If, after thirty (30) days from the date of notice of violation or further period as agreed to by the alleged violator, the Code Enforcement Officer determines, in the officer's reasonable discretion, that the parties have not resolved the alleged violation, the Code Enforcement Officer may institute civil enforcement proceedings or any other remedy at law to ensure compliance with the Ordinance or permit.

209.11 Appeals

An appeal from the decision of the CEO or Planning Board may be taken to the Appeals Board by the WEF Permittee, Owner/operator or Licensee, or a complainant. Such appeal must be in writing and must specify the grounds thereof, and must be filed with the Town Clerk within 30 days after the final action of the CEO or Planning Board. The Town Clerk shall provide any appeal to the Appeals Board. The

Appeals Board shall fix a reasonable time for the hearing of the appeal, and shall give public notice thereof as well as due notice to the WEF Permittee, Owner/operator and/or Licensee, as applicable, and the complainant. The Appeals Board review process shall be conducted as an appellate procedure. The action of the CEO or Planning Board shall be sustained unless the Appeals Board, by a favorable vote of the majority of all members of the Appeals Board, reverses or modifies the CEO or Planning Board's determination.

Section 210.0 - Application Submission Requirements

210.1 General Submission Requirements

210.1.1 A completed application form including:

- 210.1.1.a The Applicant and Participating Landowner(s') name(s) and contact information.
- 210.1.1.b The address, tax map number, zone and owner(s) within 500' of the proposed facility site and any contiguous parcels owned by Participating Landowners.
- 210.1.1.c The tax map number, zone, current use, owner(s) and addresses of owner(s) of parcels that abut the proposed facility site or abutting parcels within 500' of Participating Landowners that are contiguous with the proposed facility site (Not required for Type 1A applications)
- 210.1.1.d An affirmation, signed and dated by the Applicant, that the information provided in the application is correct and that the proposed Small Scale Wind Energy Facility, if approved and built, shall be constructed and operated in accordance with the standards of this ordinance and all conditions of approval, if any
- 210.1.2 Receipt showing payment of application fee in accordance with Appendix A.
- 210.1.3 A copy of a deed, easement, purchase option or other comparable documentation demonstrating that the Applicant has right, title or interest in the proposed facility site.
- 210.1.4 Location map showing the boundaries of the proposed facility site and all contiguous property under total or partial control of the Applicant or Participating Landowner(s) and any Scenic Resource or Historic Site within 2500 feet of the proposed development.
- 210.1.5 Description of the proposed Small Scale Wind Energy Facility that includes the number and aggregate rated capacity of all Wind Turbines, the Turbine Height and manufacturer's specifications for each Wind Turbine (including but not limited to the make, model, maximum rated capacity, sound emission levels and types of overspeed controls) and a description of Associated Facilities.

- 210.1.6 Site plan showing the proposed location of each Wind Turbine and Associated Facilities and any of the following features located within 500 feet of any Wind Turbine: parcel boundaries, required setbacks, roads, rights-of-way, overhead utility lines, buildings (identified by use), land cover, wetlands, streams, water bodies and areas proposed to be re-graded or cleared of vegetation. (Not required for Type 1A Applications.)
- 210.1.6.a In addition to the information in 210.1.6, above, site plans for Type 1B Wind Energy Facilities shall show the location and average height of tree cover to be retained and the location, variety, planting height and mature height of proposed trees, if any.
- 210.1.6.b In addition to the information in 210.1.6, above, site plans for Type 1B Wind Energy Facilities shall show topographic contour lines as shown on the most recent USGS 7.5-minute quadrangle map.
- 210.1.7 Written evidence that the provider of electrical service to the property has been notified of the intent to connect an electric generator to the electricity grid, if such connection is proposed.
- 210.1.8 Description of emergency and normal shutdown procedures.
- 210.1.9 Photographs of existing conditions at the site.
- 210.1.10 An application for a Type 1A or 1B Small Scale Wind Energy Facility shall include structural drawings of the Tower foundation and anchoring system: a) prepared by the Wind Turbine or Tower manufacturer, b) prepared in accordance with the manufacturer's specifications or, c) prepared and stamped by a Maine-licensed professional engineer.
- 210.1.11 An application for Type 1A or Type 1B Small Scale Wind Energy Facility shall include:
- 210.1.11.a. A written statement, signed by the Applicant, that certifies that the proposed facility is designed to meet the applicable noise control standards under section 212.1.3 and acknowledges the Applicant's obligation to take remedial action in accordance with section 212.1.6 if the Code Enforcement Officer determines those standards are not being met or; .
- 210.1.12 An Application for Type 1B Small Scale Wind Energy Facility shall include: sight line representation and photographic information as detailed below.
- 210.1.12.a. Sight Line Representations of each Wind Turbine from the nearest Occupied Building not owned by the applicant and from at least one other representative location within 500 feet of the Wind Turbine, such as a Scenic Resource or another Occupied Building. Each Sight Line Representation shall be drawn at a scale sufficiently large to make it legible.

210.1.12.b. A current size four-inch by six-inch minimum color photograph of the proposed site of the Wind Turbine(s) taken from viewpoints corresponding to each of the Sight Line Representations.

210.1.12.c. One copy of each of the photographs described in Section 210.1.13.b, above, onto which is superimposed an accurately scaled and sited representation of the Wind Turbine(s).

Section 211.0 - General Standards

211.1 Safety Setbacks

Wind Turbines shall be set back a horizontal distance equivalent to 150% of the Turbine Height from property boundaries, public and private rights-of-way and overhead utility lines that are not part of the proposed Generating Facility except that the entity responsible for review and approval of the application may allow a reduced setback if the Applicant submits, in writing: 1) a waiver of the property boundary setback signed by the pertinent abutting landowner.

211.2 Natural Resource Protection

A Small Scale Wind Energy Facility shall not have an unreasonable adverse effect on rare, threatened, or endangered wildlife, significant wildlife habitat, rare, threatened or endangered plants and rare and exemplary plant communities. In making its determination under this subsection, the municipal entity responsible for review and approval of the permit application under Section 209.1 shall review the latest BWH map series produced by Maine Department of Inland Fisheries and Wildlife, and any other area described in other DEFRIS, maps or datasets as provided by MDIFW.

211.3 Building Permit

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

211.4 Overspeed Controls and Brakes

Each Wind Turbine shall be equipped with an overspeed control system that: 1) includes both an aerodynamic control such as stall regulation, variable blade pitch, or other similar system, and a mechanical brake that operates in fail safe mode; or 2) has been designed by the manufacturer or a licensed civil engineer and found by the municipal entity responsible for review and approval of the application under 209.1, based on its review of a written description of the design and function of the system, to meet the needs of public safety.

211.5 Electrical Components and Interconnections

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

211.6 Access

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

211.7 Blade Clearance

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

211.8 Signal Interference

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

211.9 Structure Type

Towers shall be monopoles with no guy wires. This requirement may be waived if the Applicant demonstrates to the satisfaction of the municipal entity responsible for review and approval of the permit application under section 209.1, that there is no practicable alternative. Bird flight diverters must be installed on any guy wires that are permitted.

211.10 Erosion Control

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

211.11 Building-Mounted Wind Turbines

Building-mounted Wind Turbines are not permitted.

This requirement may be waived if the Applicant demonstrates, to the satisfaction of the municipal entity responsible for review and approval of the permit application under Section 209.1, that there be no practicable alternative and that proposed installation is safe and appropriate for the application being proposed.

211.12 Visual Appearance

211.12.1 A Wind Turbine shall be a non-obtrusive color such as white, off-white or gray, or as may otherwise be required by another governmental agency with jurisdiction over the Small Scale Wind Energy Facility.

211.12.2 A Wind Turbine shall not be lighted artificially, except to the extent consistent with Federal Aviation Administration recommendations or other applicable authority that regulates air safety or as is otherwise required by another governmental agency with jurisdiction over the Small Scale Wind Energy Facility.

211.12.3 A Wind Turbine shall not be used to support signs and shall not display advertising except for reasonable and incidental identification of the turbine manufacturer, facility owner and operator, and for warnings.

211.12.4 Blade Glint, defined as the intermittent reflection of the sun off the surface of the blades of a Wind Turbine, is prohibited.

211.13 Visibility of Wind Turbine

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

211.13.1 To the extent that doing so does not inhibit adequate access to the wind resource, each Wind Turbine shall be located to maximize the effectiveness of existing vegetation, structures and topographic features in screening views of the Wind Turbine from Occupied Structures and Scenic Resources.

211.13.2 When existing features do not screen views of a Wind Turbine from Occupied Structures and Scenic Resources, screening may be required, where feasible and effective, through the planting of trees and/or shrubs. In order to maximize the screening effect and minimize wind turbulence near the Wind Turbine, plantings should be situated as near as possible to the point from which the Wind Turbine is being viewed. Such plantings should be of native varieties.

Section 212.0 - Noise Standards for Type 1A and Type 1B Small Scale Wind Energy Facility

212.1 Noise emanating from a Type 1A or Type 1B Small Scale Wind Energy Facility shall be controlled in accordance with the provisions of this section as follows;

212.1.1 The sound level limits contained in this section apply only to areas that are defined as Protected Locations and to property boundaries that describe the outer limits of the facility site in combination with any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site .

212.1.2 The sound level limits contained in this section do not apply to the facility site or any parcel(s) owned by a Participating Land-Owner that are contiguous with the facility site.

212.1.3 The sound levels resulting from routine operation of a Small Scale Wind Energy Facility, as measured in accordance with the procedures described in section 212.1.5 shall not exceed the limits specified for the following locations and times:

212.1.3.a At a Protected Location with no living and sleeping quarters within 100':

35 dBA during the Protected Location's regular hours of operation

212.1.3.b At a Protected Location with living and sleeping quarters:

212.1.3.b.1 Area(s) within 500 feet of living and sleeping quarters:

40 dBA between 7:00 p.m. and 7:00 a.m.

50 dBA between 7:00 a.m. and 7:00 p.m.

212.1.3.b.2. Area(s) more than 500 feet from living and sleeping quarters or at property boundaries that describe the outer limits of the facility site combined with any parcel (s) owned by a Participating Land Owner that are contiguous with the facility site.

55dBA at all times.

212.1.3.c.3 Areas within 100' of occupied structure:

No more than 35 dBA at any time.

212.1.4 If the Applicant submits the certification and acknowledgement required by Section 210.1.12(a), the municipal entity responsible for review and approval of the application under Section 209.1 shall determine, for purposes of issuing its approval, that the pertinent sound-level limits under section 212.1 have been met, subject to the Applicant's obligation to take remedial action as necessary under section 212.1.6..

212.1.5 The Codes Enforcement Office may perform measurements of sound levels resulting from routine operation of an installed Type 1A or Type 1B Small Scale Wind Energy Facility at the officer's own initiative or in response to a noise-related complaint to determine compliance with the pertinent standards in section 212.1. Such measurements shall be performed as follows:

212.1.5.a Measurements shall be obtained during representative weather conditions when the sound of the Small Scale Wind Energy Facility is most clearly noticeable. Preferable weather conditions for sound measurements at distances greater than about 500 feet from the sound source include overcast days when the measurement location is downwind of the Wind Turbine and inversion periods (which most commonly occur at night).

212.1.5.b Sound levels shall be measured at least four (4) feet above the ground by a meter set on the A-weighted response scale, fast response. The meter shall meet the latest version of American National Standards Institute (ANSI S1.4.) "American Standard Specification for General Purpose Sound Level Meters" and shall have been calibrated at a recognized laboratory within the past year.

212.1.5.c 5 dBA shall be added to sound levels of any Short Duration Repetitive Sound measured in accordance with paragraphs a and b.

212.1.6 The Applicant shall operate the proposed Small Scale Wind Energy Facility in conformance with the sound level limits of section 212.1 if applicable . If, based on post-installation measurements taken in accordance with section 212.1.3, the Code Enforcement Officer determines that the applicable sound-level limits are not being met, the Applicant shall, at the Applicant's expense and in accordance with the Town of Eddington Small Scale Wind Energy Facility Ordinance and in consultation with the Code Enforcement Officer, take remedial action deemed necessary by the Code Enforcement Officer to ensure compliance with those limits. Remedial action that the Code Enforcement Officer may require, includes, but shall not be limited to, one or more of the following:

212.1.6.a modification or limitation of operations during certain hours or wind conditions;

212.1.6.b maintenance, repair, modification or replacement of equipment;

212.1.6.c relocation of the Wind Turbine(s); and,

212.1.6.d removal of the Wind Turbine(s) provided that the Code Enforcement Officer may require removal of the Wind Turbine(s) only if the Code Enforcement Officer determines (in his or her sole opinion) that there is no practicable alternative or that the applicant has demonstrated an inability or unwillingness to make a good faith effort to take proper remedial actions to insure compliance with the sound level limits of this ordinance.

Section 213.0 - Discontinued Use for Type 1A and 1B Small Scale Wind Energy Facilities.

213.1 A Type 1A or Type 1B Small Scale Wind Energy Facility that is not generating electricity for twelve (12) consecutive months shall be deemed a discontinued use and shall be removed from the property by the current owner within 120 days of receipt of notice from the Code Enforcement Officer, unless the current owner provides information that the Planning Board deems sufficient to demonstrate that the project has not been discontinued and should not be removed. If the Small Scale Wind Energy Facility is not removed within this time period, the municipality may remove the turbine at the current owner's expense. The Applicant shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads and reestablishment of vegetation.

Section 214.0 - APPENDIX A

Application and License Fees

TOWN OF EDDINGTON

WINTER PARKING ORDINANCE

Approved March 17, 1992
Amended March 20, 2001

It shall be unlawful and in violation of the Ordinance between November 1 and April 1 of the calendar year for any person to park a vehicle in or upon any street, public way, public square, or public parking area within the Town of Eddington so as to interfere with or hinder snow removal or snow plowing operations.

The ownership of a vehicle parked in violation of any provision of this Ordinance is a prima facie evidence that it was so parked by the owner thereof.

Any Town constable, Town police, State police or deputy sheriff is hereby authorized to have removed or towed away by a commercial towing service any vehicle parked in violation of this Ordinance and to have it parked in a suitable place at the expense of the owner of the vehicle.

Any person convicted of a violation of any provision of this Ordinance shall in addition to any other remedies provided herein be subject to a fine of not less than \$25.00 nor more than \$100.00; each day that a violation continues shall be a separate offense.

TOWN OF EDDINGTON
WIRELESS TELECOMMUNICATIONS
FACILITIES ORDINANCE

PREPARED BY
EDDINGTON PLANNING BOARD

EFFECTIVE
MARCH 19, 2002

REVISED AND ACCEPTED
MARCH 24, 2009
AT THE ANNUAL TOWN MEETING

**TOWN OF EDDINGTON
WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE**

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WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE

Section 1. Title

This Ordinance shall be known and cited as the "Wireless Telecommunications Facilities Siting Ordinance" of Eddington, Maine, (hereinafter referred to as the "ordinance").

Section 2. Authority

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

Section 3. Purpose

The purpose of this ordinance is to provide a process and a set of standards for the construction of wireless telecommunications facilities in order to:

- a.) Implement a municipal policy concerning the provision of wireless telecommunications services, and the siting of their facilities;
- b.) Establish clear guidelines, standards and time frames for the exercise of municipal authority to regulate wireless telecommunications facilities;
- c.) Allow competition in telecommunications service;
- d.) Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Eddington;
- e.) Permit and manage reasonable access to the public rights of way of Eddington for telecommunications purposes on a competitively neutral basis;
- f.) Ensure that all telecommunications carriers providing facilities or services within Eddington comply with the ordinances of Eddington;
- g.) Ensure that Eddington can continue to fairly and responsibly protect the public health, safety and welfare;
- h.) Encourage the co-location of wireless telecommunications facilities, thus helping to minimize adverse visual impacts on the community;
- i.) Enable Eddington to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- j.) Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses

Protect the scenic and visual character of the community.

Section 4. Applicability

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in section 4.1.

4.1. Exemptions

The following are exempt from the provisions of this ordinance:

A.) Emergency Wireless Telecommunications Facility. Temporary wireless communication facilities for emergency communications by public officials.

B.) Amateur (ham) radio stations. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC).

C.) Parabolic antenna. Parabolic Antennas less than four (4) feet in diameter, that are an accessory use of the property.

D.) Maintenance or repair. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility.

E.) Temporary wireless telecommunications facility. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days.

F.) Antennas as Accessory Uses. An antenna that is an accessory use to a residential dwelling unit.

Section 5. Review and Approval Authority

5.1. Approval Required

No person shall construct, alter or expand a wireless telecommunication facility without approval of the Planning Board as follows:

A.) Expansion of an Existing Facility and Colocation. Approval by the Planning Board is required for any expansion of an existing wireless telecommunications facility; accessory use of an existing wireless telecommunications facility; or colocation on an existing wireless telecommunications facility.

B.) New Construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility.

5.2 Approval Authority

In accordance with Section 5.1 above, the Planning Board shall review applications for wireless telecommunications facilities, and make written findings on whether the proposed facility complies with this Ordinance.

Section 6. Approval Process

6.1. Pre-Application Conference

All persons seeking approval of the Planning Board under this ordinance shall meet with the CEO no less than thirty (30) days before filing an application. At this meeting, the CEO shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

6.2. Application

All persons seeking approval of the Planning Board under this ordinance shall submit an application as provided below. The CEO shall be responsible for ensuring that notice of the application has been published in a newspaper of general circulation in the community.

A.) Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Code Enforcement Officer. The application must include the following information:

- 1.)** Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
- 2.)** A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with current FCC regulations.
- 3.)** A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a five (5) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
- 4.)** A site plan:
 - a.)** prepared and certified by a professional engineer registered in Maine indicating the location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
 - b.)** certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
 - c.)** a boundary survey for the project performed by a land surveyor licensed by the State of Maine.

5.) A scenic assessment, consisting of the following:

a.) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;

b.) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method.

c.) A visual analysis which may include photo montage, field mock-up, or other techniques shall be prepared by or on behalf of the applicant which identifies the potential visual impacts, at design capacity, of the proposed facility to the satisfaction of the Planning Board. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. All costs for the visual analysis, and applicable administrative costs, shall be borne by the applicant.

d.) A narrative discussing:

i.) the extent to which the proposed facility would be visible from or within a designated scenic resource,

ii.) the tree line elevation of vegetation within 100 feet of the facility, and

iii.) the distance to the proposed facility from the designated scenic resource's noted viewpoints.

6.) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7.) Evidence demonstrating that no existing building, site, or structure can accommodate the applicant's proposed facility, the evidence for which may consist of any one or more of the following:

a.) Evidence that no existing facilities are located within the targeted market coverage area as required to meet the applicant's engineering requirements,

b.) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements,

c.) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:

i.) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.

ii.) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.

iii.) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

d.) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance;

e.) Evidence that the applicant has made diligent good faith efforts to negotiate colocation on an existing facility, building, or structure, and has been denied access;

8.) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).

9.) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:

a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation;

d.) require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction,

financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.

10.) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned.

a.) The amount of the surety will be determined by specifics of each site installation. The amount shall be determined by a registered Professional Engineer with certified experience in the field of tower construction and deconstruction and as approved by the Selectmen.

b.) The surety shall be payable to the Town of Eddington and shall be in an amount sufficient to cover the full cost of removal as established in section (10.a) above.

11.) Evidence that a notice of the application has been published in a local newspaper of general circulation in the community.

6.3. Submission Waiver

The Planning Board may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Ordinance.

6.4. Fees

A. Planning Board Application Fee

An application for Planning Board approval shall include payment of an application fee of as specified in the current Town of Eddington fee schedule. The application shall not be considered complete until this fee is paid. An applicant is entitled to a refund of the application portion of fee if the application is withdrawn within fifteen (15) days of date of filing, less all expenses incurred by the Town of Eddington to review the application.

B. Planning Board Review Fee

An applicant for approval by the Planning Board shall pay all reasonable and customary legal, engineering and other professional consultant fees incurred by the municipality that are necessary to review the application. The review fee shall be paid in full prior to the start of construction. Please consult fee schedule for amount.

That portion of the review fee not used shall be returned to the applicant within fourteen (14) days of the Planning Board's decision.

6.5. Notice of Complete Application

Upon receipt of an application, the CEO shall provide the applicant with a dated receipt. Within five (5) working days of receipt of an application the CEO shall review the application and determine if the application meets the submission requirements. The Planning Board shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application.

If the application is complete, the CEO shall notify the applicant in writing of this determination and require the applicant to provide a sufficient number of copies of the application to the Planning Board.

If the application is deemed to be complete the CEO shall notify all abutters to the site as shown on the Assessor's records, by first-class mail, that an application has been accepted. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

If the application is incomplete, the CEO shall notify the applicant in writing, specifying the additional materials or information required to complete the application.

6.6. Public Hearing

For applications for Planning Board approval under Section 5.1(B), a public hearing shall be held within 30 days of the notice of the complete application.

6.7. Approval

A.) Planning Board Approval. Within ninety (90) days of receiving a complete application for approval under section 5.1(B), the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within sixty (60) days of the public hearing, if necessary, or within 60 days of the completed Planning Board review. This time period may be extended upon agreement between the applicant and the Planning Board.

Section 7. Standards of Review

To obtain approval from the Planning Board, an application must comply with the standards in this section.

7.1. Planning Board Approval Standards

An application for approval by the Planning Board under Section 5.1(A) (Expansion) and Section 5.1(B) (New) must meet the following standards.

A.) Priority of Locations. New wireless telecommunications facilities must be located according to the priorities below. The applicant shall demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility.

- 1.) Co-location on an existing wireless telecommunications facility or other existing structure in the following districts, as identified in the Town of Eddington Zoning Ordinance:
- 2.) New wireless telecommunications facilities may be permitted only in Agricultural/Farming Zone.
- 3.) No tower may be located within 1000' from any state, town or subdivision road.

B.) Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:

- 1.) The proposed location complies with applicable municipal policies and ordinances.
- 2.) The proposed facility will not interfere with the intended purpose of the property.
- 3.) The applicant has adequate liability insurance and a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.

C.) Co-located and Multiple User Facilities.

- 1.) An analysis shall be prepared by or on behalf of the applicant, subject to the approval of the decision making body, which identifies all reasonable, technically feasible, alternative locations and or facilities which would provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies, which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the Town of Eddington and surrounding rural and urban

areas. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of the feasible alternatives. Approval of the project is subject to the decision making body making a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. The Town of Eddington may require independent verification of this analysis at the applicant's expense. Facilities which are not proposed to be colocated with any other telecommunication facility shall provide a written explanation why the subject facility is not a candidate for colocation.

2.) All colocated and multiple user telecommunication facilities shall be designed to promote facility and site sharing. To this end telecommunication towers and necessary appurtenances, including but not limited to, parking areas, access roads, utilities, and equipment buildings shall be shared by site users. This will minimize overall visual impact to the community.

3.) The facility shall make available un-utilized space for co-location of other telecommunication facilities, including space for those entities providing similar, competing services. A good faith effort in achieving co-location shall be required of the host entity. Requests for utilization of facility space and responses to such requests shall be made in a timely manner and in writing and copies shall be provided to the Town of Eddington for its permit files. Unresolved disputes may be mediated by the CEO or Planning Board, as appropriate. Colocation is not required in cases where the addition of the new service or facilities would cause quality of service impairment to the existing facility or if it became necessary for the host to go off line for a significant period of time.

4.) Approval for the establishment of facilities improved with an existing microwave band or other public service use or facility, which creates interference or interference, is anticipated as a result of said establishment of additional facilities, and shall include provisions for the relocation of said existing public use facilities. All costs associated with said relocation shall be borne by the applicant for the additional facilities.

D.) Location

All telecommunication facilities shall be located so as to minimize their visibility and the number of distinct facilities present. To this end all of the following measures shall be implemented for all telecommunication facilities, except exempt facilities as defined in this Land Use Code.

No telecommunication facility shall be installed within the safety zone of the Bangor International Airport or the Brewer Airport unless the airport owner or operator indicates that it will not adversely affect the operation of the airport.

No telecommunication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless technical evidence

acceptable to the Planning Board is submitted showing that this is the only technically feasible location for this facility.

No telecommunication facility shall be installed on an exposed ridge line, in or at a location readily visible from highways or roadways, a public trail, public park or other outdoor recreation area, or in property designated as a park or open space on any Site or Subdivision Plan as approved by the Planning Board, unless the facility blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable.

No telecommunication facility that is readily visible from off-site shall be installed closer than one-half mile from another readily visible un-camouflaged or unscreened telecommunication facility unless it is a co-located facility, situated on a multiple user site or blends in with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable.

E.) Height.

A new wireless telecommunications facility must be no more than 195 feet in height.

The height of a telecommunication tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto.

In the case of building mounted towers the height calculation of the tower includes the height of the portion of the building on which it is mounted.

In the case of crank up or other similar towers whose height can be adjusted, the calculated height of the tower shall be the maximum height to which it is capable of being raised.

F.) Setbacks. A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be set back one hundred fifty percent (150%) of its height from all property lines whichever is greater, including any attached transmitting or receiving devices. Guy wire anchors shall meet the minimum setback of the zoning districts.

All set backs shall be measured from the base of the tower or structure closest to the applicable property line or structure.

Tower setback requirements may be waived under any of the following circumstances:

- 1.) The facility is proposed to be co-located onto an existing, legally established telecommunication tower
- 2.) Overall, the reduced setback enables further mitigation of adverse visual and other environmental impacts that would otherwise be possible.

G. Basic Design.

All telecommunications facilities shall be designed to blend into the surrounding environment the greatest extent feasible. To this end the following measures shall be implemented:

- 1.) Telecommunication towers shall be designed and constructed as set forth by this Land Use Code and other ordinances and codes of the Town Of Eddington.
- 2.) Telecommunications towers taller than thirty five (35') shall be monopoles or guyed/lattice towers except where satisfactory evidence is submitted to the Planning Board or Code Enforcement Officer, as appropriate, that a self-supporting tower is required to provide the height and/or capacity necessary for the proposed telecommunication use to minimize the need for screening from adjacent properties.
- 3.) Satellite dishes other than microwave dishes shall be of mesh construction, except where technical evidence is acceptable to the Code Enforcement Officer or Planning Board, as appropriate, is submitted showing that this is infeasible.
- 4.) Telecommunication support facilities (i.e. vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only) and shall be placed in under ground vaults to all extent possible.
- 5.) Telecommunication support facilities shall be no taller than one story (fifteen feet) in height and shall be treated to look like a building or facility typical found in the area.
- 6.) Telecommunication support facilities in areas of high visibility shall, where possible, be sited below the ridge line or designed (i.e. placed under ground, depressed, or located behind earth berms) to minimize their profile.
- 7.) All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunications site shall be initially painted and thereafter repainted as necessary with a flat paint. The color selected shall be one that will minimize their visibility to the greatest extent possible. To this end improvements which will be primarily viewed against soils trees or grasslands shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that matches the typical color at that location.
- 8.) The project description and permit shall include a specific maximum allowable gross cross-sectional area, or silhouette of the facility. The silhouette shall be measured from the worse case elevation perspective.

9.) The Town of Eddington shall have the authority to require special design of the telecommunication facilities when findings of particular sensitivity are made (e.g. proximity to historic or aesthetically significant structures, views and/or community features).

H.) Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable. To this end all of the following measures shall be implemented for all telecommunications facilities. Except exempt facilities as defined in this Land Use Code.

A landscape plan shall be submitted with project application. This plan will indicate all existing vegetation; identify landscaping that is to be retained on the site, any additional vegetation that is needed to satisfactorily screen the facility from adjacent land uses and public view areas. The landscape plan shall be subject to review and approval during the site plan review process. All trees larger than four inches (4") in diameter shall be identified in the landscape plan with indication of species type, diameter at four and on half (4 1/2') high, and whether each is to be retained or removed with project development.

Existing trees and other screening vegetation in the facility and along the access road and power/telecommunications line routes involved shall be protected from damage, both during the construction period and thereafter. To this end, The following measures shall be implemented:

- 1.) A Tree Protection Plan shall be submitted with building permit or improvement plan. This Plan shall be prepared by a certified arborist and give specific measures to protect trees during project construction.
- 2.) Grading, cutting/filling, and the storage /parking of equipment /vehicles shall be prohibited in landscaped areas to be protected and the drip kind of any trees required to be preserved. Such areas shall be fenced to the satisfaction of the Code Enforcement Officer or Planning Board, as appropriate. Trash, debris, spoils shall not placed within these fences nor shall the fences henceforth be opened or moved until the project is complete and written approval to take the fences down has been received fro the Code Enforcement Officer.
- 3.) All underground lines shall be routed such that a minimum amount of damage is done to tree root systems.
- 4.) All areas disturbed during project construction other than the access road and parking areas shall be replanted with vegetation compatible with the vegetation in the surrounding area.

Any existing trees or significant vegetation, on the facilities site or along the

affected access area that die shall be replaced with native trees and vegetation of a size and species.

No action shall be taken subsequent to the project completion with respect to the vegetation present that would increase the visibility of the facility itself or of the access road and power/telecommunication lines serving it.

I.) Fencing and Access. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.

All telecommunications facilities shall be located and equipped with step bolts and ladders to be readily accessible for inspection purposes.

Guy wires and other accessories shall not cross or encroach upon any street or public space, be located over electric power lines, or encroach upon any other privately owned property without the written consent of the owner of record.

J.) Lighting.

All telecommunications facilities shall be unlit except for the following:

- 1.) Security lighting may be used as long as it is shielded to be down-directional to retain light within the boundaries of the site. (to the maximum extent practicable).
- 2.) The minimum tower lighting required under FAA regulation. Where tower lighting is required it shall be shielded or directed to the greatest extent possible in such a manner to minimize the amount of light that falls onto nearby properties, particularly residences.

K.) Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.

L.) Structural Standards. A new wireless telecommunications facility must comply with the current Electronic Industries Association/ Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."

Said design shall be certified by a structural engineer experienced in the construction of towers and licensed by the State of Maine. The cost of certification shall be borne by the applicant.

M.) Visual Impact. The proposed wireless telecommunications facility will have no unreasonable adverse impact upon designated scenic resources within the Town, as identified either in the municipally adopted comprehensive plan, or by a State or federal agency.

Facility structures and equipment shall be located, designed, and screened to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed telecommunication service and the need to be compatible with the neighboring residences and the character of the community.

Following assembly and installation of the facility all waste and debris shall be removed and disposed of in a lawful manner.

1.) In determining the potential unreasonable adverse impact of the proposed facility upon the designated scenic resources, the Planning Board shall consider the following factors:

a.) The extent to which the proposed wireless telecommunications facility is visible above tree line, from the viewpoint(s) of the impacted designated scenic resource;

b.) the type, number, height, and proximity of existing structures and features, and background features within the same line of sight as the proposed facility;

c.) the extent to which the proposed wireless telecommunications facility would be visible from the viewpoint(s);

d.) the amount of vegetative screening;

e.) the distance of the proposed facility from the viewpoint and the facility's location within the designated scenic resource; and

f.) the presence of reasonable alternatives that allow the facility to function consistently with its purpose.

N.) Noise. During construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. is exempt from existing municipal noise standards.

O.) Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, will have no unreasonable adverse impact upon a historic district, site or structure which is currently listed on or eligible for listing on the National Register of Historic Places.

P.) Environment Resource Protection.

All telecommunication facilities shall be sited so as to minimize the effect on environmental resources. To that end the following measures shall be implemented for all telecommunication facilities.

1.) No telecommunications facility or related improvements including but not

limited to access roads and power lines shall be sited so as to create a significant threat to the health or survival of rare, threatened, or endangered plant or animal species.

2.) No telecommunications facility or related improvements shall be sited such that their construction will damage an archeological site, or have an adverse effect on the historic character of a historic feature or site.

3.) No telecommunications facility shall be sited such that its presence threatens the health or safety of migratory birds.

4.) The facility shall comply with all applicable Floodplain, Floodway, and Storm drainage and Erosion Control Regulations of Town of Eddington, State of Maine, and U.S. Government.

5.) Potential adverse impacts on nearby public use areas such as parks or trails shall be minimized

6.) Drainage, erosion, and sediment controls shall be required as necessary to avoid soil erosion and sedimentation of waterways and wetlands during and after construction. Structures and roads on slopes of 10% or greater shall be avoided. Erosion control measures shall be incorporated for any proposed facility that involves grading near a waterway or on lands with a slope of 10%.

7. 2 Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the Planning Board. Where necessary to ensure than an approved project meets the criteria of this ordinance, the Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan and shall include:

1.) The owner of the wireless telecommunications facility and his or her successors and assigns agree to:

a.) respond in a timely, comprehensive manner to a request for information from a potential colocation applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;

b.) negotiate in good faith for shared use of the wireless telecommunications facility by third parties;

c.) allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for colocation.

d.) require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata

share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.

2.) Upon request by the municipality, the applicant shall certify compliance with all applicable FCC radio frequency emissions regulations.

Section 8. Amendment to an Approved Application

Any changes to an approved application must be approved by the Planning Board, in accordance with Section 5.

Section 9. Abandonment

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The CEO shall notify the owner of an abandoned facility in writing and order the removal of the facility within ninety (90) days of receipt of the written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to demonstrate to the CEO that the facility has not been abandoned.

If the Owner fails to show that the facility is in active operation, the owner shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the Town of Eddington may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and reestablishment of vegetation. If the owner of the facility fails to carry out its responsibilities under the section, then the owner of the property on which the facility is located shall be responsible for the removal of the facility and all other actions required by this section at its expense.

New construction after adoption of this ordinance will be covered by surety as described in Section 6.2A, subsection 10.

Section 10. Appeals

See Section 515.2 of the Eddington Zoning Ordinance.

Section 11. Administration and Enforcement

The CEO, as appointed through either the Zoning Ordinance or by the Board of Selectmen or Town or City Council, shall enforce this ordinance. If the CEO finds that any provision of this ordinance has been violated, the CEO shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering

the action necessary to correct it. The CEO shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance. The [Municipal Officers], or their authorized agent, are authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

Section 12. Penalties

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A. § 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

Section 13. Conflict and Severability

13.1 Conflicts with other Ordinances

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

13.2 Severability

The invalidity of any part of this ordinance shall not invalidate any other part of this ordinance.

Section 14. Definitions

The terms used in this ordinance shall have the following meanings:

"Antenna" means any system of poles, panels, rods, reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.

" Tower Height" means the vertical distance of the tower.

Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the tip of the highest antenna or piece equipment attached thereto.

If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.

"Colocation" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.

"Expansion" means the addition of antennas, towers, or other devices to an existing structure.

"FAA" means the Federal Aviation Administration, or its lawful successor.

"FCC" means the Federal Communications Commission , or its lawful successor.

"Height" means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.

"Historic or Archaeological Resources" means resources that are:

- 1.) Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
- 2.) 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;
- 3.) Individually listed on a state inventory of historic places in states with historic preservation programs approved by the Secretary of the Interior;
- 4.) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by Secretary of the Interior through the Maine Historic Preservation Commission; or
- 5.) Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"Historic District" means a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development and identified in the municipality's comprehensive plan, which is listed or is eligible to be listed on the National Register of Historic Places. Such historic districts may also comprise individual elements separated geographically, but linked by association or history.

"Historic Landmark" means any improvement, building or structure of particular historic or architectural significance to the Town relating to its heritage, cultural, social, economic or political history, or which exemplifies historic personages or important

events in local, state or national history identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National Register of Historic Places.

"Line of sight" means the direct view of the object from the designated scenic resource.

"Parabolic Antenna" (also known as a satellite dish antenna) means an antenna which is bowl-shaped, designed for the reception and or transmission of radio frequency communication signals in a specific directional pattern.

"Principal Use" means the use other than one, which is wholly incidental or accessory to another use on the same premises.

"Public Recreational Facility" means a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.

"Designated Scenic Resource" means that specific location, view, or corridor, as identified as a scenic resource in the municipally adopted comprehensive plan or by a State or federal agency, that consists of:

1.) a three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such a downtown skyline or mountain range, resulting in a panoramic view corridor; or

2.) lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.

"Targeted Market Coverage Area" means the area which is targeted to be served by this proposed telecommunications facility.

"Unreasonable Adverse Impact" means that the proposed project would produce an end result which is:

1.) excessively out-of-character with the designated scenic resources affected, including existing buildings structures and features within the designated scenic resource, and

2.) would significantly diminish the scenic value of the designated scenic resource.

"Viewpoint" means that location which is identified either in the municipally adopted comprehensive plan or by a federal or State agency, and which serves as the basis for the location and determination of a particular designated scenic resource.

"Wireless Telecommunications Facility" or "Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

Section 15. Effective Date – March 19, 2002

Amended July 16, 2002 (Section 7.2 E. Setbacks added, whichever is greater. No tower located within 500' of Route 46.)

Revised March 24, 2009

TOWN OF EDDINGTON

YARD SALE ORDINANCE

Accepted March 20, 2001 Town Meeting

Section 1. Purpose. The purpose of this ordinance is to establish procedures for yard sales.

Section 2. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

2.1 Yard sale: The term “yard sale” shall include “garage sale”, “tag sale”, “barn sale”, “flea market”, “lawn sale”, and “rummage sale”. A yard sale is an event by residents of a community to sell used and unwanted personal goods.

Section 3. Restrictions.

3.1 Yard sales shall not be open for business more than three (3) days during one (1) week, and no more than six (6) sales per year on any single property or by any resident. Yard sales shall be permitted between sunrise and sunset only.

Section 4. Fines.

4.1 A fine of \$100.00 per day will be placed on any person that violates the yard sale ordinance after being notified by the Code Enforcement Officer or an authorized Town of Eddington representative.

TOWN OF EDDINGTON

ZONING ORDINANCE

PREPARED BY

EDDINGTON PLANNING BOARD

ENACTED: March 20, 2012

REVISED: April 02, 2015 at Special Town Meeting
AMENDED to include Mineral Extraction Operation
Addendum: April 02, 2015 at Special Town Meeting

This Ordinance replaces:

Road Design Ordinance

Sign Ordinance

Building Permit/Site Plan Review Ordinance

Zoning Ordinance (prior versions)

CERTIFIED: Russell Smith

TITLE: Town Clerk

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Chapter 1: General Provisions

101 Short Title:

This Ordinance and the accompanying official zoning map or maps shall be known and may be cited as the “Zoning Ordinance, Town of Eddington, Maine”.

102 Authority:

This Ordinance has been prepared in accordance with the provisions of Chapter 239, Title 30 of the Revised Statutes of Maine, as amended, and M.R.S.A 30-A Section 3001.

103 Purpose:

The purpose of this Ordinance is to promote the health, safety, and general welfare of the residents of the Town, to encourage the most appropriate use of land throughout the Municipality; to promote traffic safety, to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsuitable areas, to provide an adequate road system; to promote the coordinated development of un-built areas; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; and to provide for adequate public services, as an integral part of a comprehensive plan for municipal development.

104 Applicability:

The provisions of this Ordinance shall govern the use of all land and structures within the Town of Eddington except for areas subject to the Town of Eddington Shoreland Zoning Ordinance and identified on the Official Shoreland Zoning Map.

105 Availability:

A copy of this Ordinance shall be on file with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

106 Validity and Severability:

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

107 Conflict with other Ordinances:

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity for compliance with any other rule, regulation, by-law, permit or provision of law. Whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this Ordinance, or of any other ordinance, regulation or statute, the provision imposing the greater restriction upon the use of the land, buildings or structures shall control.

108 Amendments:

This Ordinance may be amended by a majority vote of a legally called Town Meeting. Such amendments shall be referred to the Planning Board for review. The Board shall have 120 days

prior to presentation at a Town Meeting to review the proposed amendment and take action. Amendments submitted by petition of voters, or those to be voted by referendum shall follow the procedures required by law.

108.1 Initiation:

A proposal for an amendment to this Ordinance may be initiated by:

108.1.1 The Planning Board, by a majority vote of the Board:

108.1.2 The Municipal Officers, through a request to the Planning Board;

108.1.3 An individual, through a request to the Planning Board; or

108.1.4 A written petition of a number of registered Eddington voters equal to at least 10% of the voters in the last gubernatorial election.

108.2 Procedures:

108.2.1 Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the boundary change proposed, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment is proposed by other than the Municipal Officers or the Planning Board, a fee shall accompany the proposal to cover the costs of hearings and advertisements.

108.2.2 Within 30 days of receiving a request for an amendment, the Planning Board shall hold a public hearing on the proposed amendment, and unless the amendment has been submitted by Municipal Officers or by a petition, the Board shall vote whether to forward, with or without recommendation, the amendment to the Municipal Officers. The Board shall make a written recommendation regarding passage to the Municipal Officers and Legislative Body prior to any action on the amendment by the Municipal Officers.

108.2.3 The Municipal Officers shall hold a public hearing on the proposed amendment. Notice of the hearing shall be posted and advertised in a newspaper of general circulation in the municipality at least 7 days prior to the hearing. The notice shall contain the time, date, and place of the hearing, and sufficient detail about the proposed changes as to give adequate notice of their content. If the proposed changes are extensive, a brief summary of the changes, together with an indication that a full text is available at the municipal clerk's office shall be adequate notice.

109 Effective Date:

The effective date of this Ordinance is: Enacted March 20, 2012. Revised April 02, 2015 and amended to include the Mineral Extraction Addendum. The Mineral Extraction Addendum and its provisions are effective retroactive to February 22, 2014 and apply to all matters, proceedings,

applications and actions pending as of, or occurring subsequent to that date, except to the extent restricted or prohibited by the provisions of 30-A M.R.S.A. §3007(6), in which case, as to those matters only, they shall apply to the maximum extent not restricted or prohibited by the provisions of §3007(6).

Chapter 2: Administration and Enforcement

201 Code Enforcement Officer:

201.1 It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, he/she shall immediately notify in writing the person responsible for such violation, indicating the nature of the violation and the action necessary to correct it. The Code Enforcement Officer is authorized to order immediate cessation of any development activity, pending action of the Board of Selectmen, as provided in subsection 202 below.

201.2 The Code Enforcement Officer shall maintain a file of all permit applications and maintain a record of all essential transactions of the office, including but not limited to applications submitted, permits granted or denied, variances granted or denied, Planning Board reviews granted or denied, revocation orders violations and fees collected.

201.3 The Code Enforcement Officer may enter any property at reasonable hours, and enter any structure with the consent of the property owner, occupant, or agent to inspect the property or structure for compliance with this Ordinance. If consent is denied, the Code Enforcement Officer may enter the property after obtaining the necessary legal authorization.

201.4 The Code Enforcement Officer shall also administer applications and grant permits within the jurisdiction of Section 606, the District Use Chart, on page 18.

202 Enforcement:

202.1 When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all corrective actions and proceedings, including, to require the removal of illegal buildings, structures, additions, or work being done; or any other action to insure compliance with, or to prevent violation of, this Ordinance in the name of the Town.

202.2 Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any provisions of this Ordinance shall upon adjudication be fined in accordance with the provisions of M.R.S.A. Title 30-A Section 4452. Each day such a violation is permitted to exist after notification by the Code Enforcement Officer shall constitute a separate offense. All fines costs and attorney fees, including the award of any court cost shall be for use and benefit of the Town of Eddington.

203 Planning Board:

203.1 The Planning Board shall hear and decide upon permit applications and perform other duties as authorized by this Ordinance.

203.2 The Planning Board shall consist of 5 primary members and 2 alternate members. An alternate member shall become a voting member when so designated by the Chairperson.

203.3 No meeting of the Planning Board shall be held without a quorum of at least 3 members.

203.4 A legal vote shall consist of a majority of the members present and voting.

203.5 Subject to state law, any questions of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members present and voting, except the member who is being challenged.

204 Board of Appeals:

204.1 The Board of Appeals shall have the following powers:

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

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

204.2 Variance Appeals:

204.2.1 Variances may only be granted from dimensional requirements including, but not limited to, lot width, structure height, percent of lot coverage and setback requirements. Variances shall not be granted for the establishment of any uses otherwise prohibited by this Ordinance.

204.2.2 The Board of Appeals shall not grant a variance unless it finds that strict application of the terms of this Ordinance would result in undue hardship. The term undue hardship shall mean the following:

204.2.2.1 The land in question cannot yield a reasonable return unless a variance is granted.

204.2.2.2 The need for the variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood.

204.2.2.3 The granting of the variance will not alter the essential character of the locality.

204.2.2.4 The hardship is not the result of action taken by the applicant or a prior owner.

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

204.2.4 A recordable version of the variance approval shall be filed by the applicant at the registry of deeds within 90 days of the date of the written approval of the variance or the variance is void.

204.2.5 The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living on the property. The Board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability. The Board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives on the property. The term 'structures necessary for access to or egress from the property' shall include ramps, railings, wall, or roof systems necessary for the safety or effectiveness of the structure.

204.3 Appeal Procedure:

204.3.1 An administrative or variance appeal may be taken to the Board of Appeals by an aggrieved party from any decision of the Code Enforcement Officer or the Planning Board. Such an appeal shall be taken within 30 days of the date of the decision appealed from, and not otherwise, except that the Board, upon showing of good cause, may waive the 30-day requirement. A decision by the Planning Board directing the Code Enforcement Officer to issue a permit shall be deemed the final decision for purposes of appeal.

204.3.2 Such appeal shall be made by filing with the Board of Appeals a written notice of appeal which includes: A concise written statement indicating what relief is requested and why it should be granted and a sketch drawn to scale showing lot lines, location of structures and other physical features of the lot pertinent to the relief sought.

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

204.3.4 The Board of Appeals shall hold a public hearing on the appeal within 35 days of its receipt of an appeal request.

204.3.5 A majority of the Board shall constitute a quorum for the purpose of deciding an appeal. A member who abstains shall not be counted in determining whether a quorum exists.

204.3.6 The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision or determination of the Code Enforcement Officer or Planning Board, to decide in favor of the applicant on any matter on which it is required to decide under this Ordinance, or to affect any variation in the application of this Ordinance from its stated terms. The Board may reverse the decision, or failure to act of the Code Enforcement Officer or the

Planning Board only upon a finding that the decision, or failure to act was clearly contrary to specific provisions of this Ordinance.

204.3.7 The Board shall decide all appeals within 35 days after the close of the public hearing, and shall issue a written decision on all appeals.

204.3.8 All decisions shall become part of the record and shall include a statement of findings and conclusions as well as the reasons or basis thereof, and the appropriate order, relief or denial thereof.

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

204.3.10 An aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within 45 days from the date of any decision of the Board of Appeals.

Chapter 3: Permit and Review Requirements

301 When a Permit is Required:

301.1 A permit is required for the following activities and shall be obtained prior to the start of any construction, site work, development or commencement of land use activity:

301.2 The construction, erection, improvement, addition, enlargement, alteration, demolition or movement of any building or structure larger than 100 square feet.

301.3 The installation or construction of a dwelling unit, manufactured home, modular home and any other form of construction wholly or partially assembled off site. .

301.4 The expansion of a non-conforming use or structure.

301.5 Mineral extraction activities.

301.6 Installation of a sign.

301.7 A new or expanded land use activity as listed in the land use table in Chapter 6 of this Ordinance.

301.8 Any change of use to another use as listed in the land use table in Chapter 6 of this Ordinance.

301.9 Any land use activity which involves moving or adding 300 cubic yards of fill, soil or stone, except for the tilling of soil.

301.10 An annual permit for a Campground, RV Park, or Manufactured Home Park.

302 When a Permit is not Required:

Permits are not required for the following:

302.1 For any use allowed without a permit as indicated in the land use table in Chapter 6 of this Ordinance.

302.2 For normal repair or maintenance.

302.3 For an accessory structure of 100 square feet or less in area and which is not attached to any other structure or building.

303 Permit Review:

303.1 All permits shall be obtained from the Code Enforcement Officer and /or the Licensed Plumbing Inspector after meeting the appropriate review requirements established in this Ordinance. Permits shall be reviewed according to the following:

303.2 Activities listed in the land use table that require Code Enforcement Officer review shall be reviewed by the Code Enforcement Officer.

303.3 Activities listed in the land use table that require Planning Board review shall be reviewed by the Planning Board.

303.4 Activities listed as allowed in the land use table shall not require review but shall conform to the applicable requirements of this Ordinance.

303.5 Plumbing and subsurface wastewater disposal permits shall be reviewed by the Code Enforcement Officer.

303.6 Expansion or enlargements of a non-conforming structure or use, or a change of non-conforming use to another non-conforming use shall be reviewed by the Planning Board.

303.7 The conveyance of a developed and contiguous nonconforming lot as per the requirements of Chapter 5 of this Ordinance shall be reviewed by the Planning Board.

303.8 Annual permits for Campgrounds, RV Parks or Mobile Home parks shall be reviewed by the Code Enforcement Officer.

304 Activities Which Require Multiple Reviews and Permits:

304.1 Applications for activities which are required to conform to one or more of the following: Shoreland Zoning, Floodplain Management and Subdivision and also require a permit and review under the provisions of this Ordinance may be reviewed concurrently by the Planning Board and/or Code Enforcement as applicable.

305 General Permit Requirements:

305.1 Permits: Applications for any permit required by this Ordinance shall be in writing on forms and in content approved by the issuing authority. Forms shall be signed and be directed to the issuing authority.

305.2 Plumbing Permits: No building permit shall be issued for any structure or use involving construction, installation, or alteration or use involving external plumbing unless a permit for such has been obtained by the applicant or his/her authorized agent from the Local Plumbing Inspector according to the requirements of this Ordinance and the State.

305.3 Fees: A non-refundable application fee is required for all applications. No application shall be reviewed until fees are received. Fees shall be determined by the town.

305.4 All permit applications shall be signed by the owner of the property, or a person with right, title or interest in the property, or a duly authorized agent, and such signature shall certify that the information is complete and correct.

305.5 An applicant shall obtain a permit from the Code Enforcement Officer within 90 days after the Planning Board makes a final decision to approve the application. The applicant shall reapply for Planning Board Review according to the requirements of this Ordinance for a new application if a permit is not obtained within the 90-day period.

305.6 A permit secured under the provisions of this Ordinance shall expire if the work or change is not commenced within one year of the date on which the permit is granted and if the work or change is not substantially completed within two years of the date of the permit.

Chapter 4: Review Procedures and Standards

401 General Review Standards:

401.1 On Site Inspection: The Code Enforcement Officer/Planning Board may conduct an on-site inspection of the parcel or buildings connected with the use before considering the application complete as part of the review process. The on-site inspection shall be at a time and in weather conditions which permit adequate inspection of the physical features of the land.

401.2 Public Hearing: The Planning Board may hold a public hearing regarding the application. Notice of said hearing shall be published in a newspaper of general circulation at least 10 days in advance of the hearing. Property abutters shall be notified by first-class mail of the date, time and place of the public hearing at least 10 days prior to the hearing. If such hearing is held, the Board shall schedule the public hearing within 35 days of deciding to hold the hearing. Failure of a property abutter to receive notification shall not require a new public hearing.

401.3 Decisions: After review of a complete application, the Code Enforcement Officer/Planning Board shall determine whether or not the permit application meets the review criteria contained in this Chapter. The Code Enforcement Officer/Planning Board shall make a written finding of fact to support its decision, and vote to approve the application, approve the application with conditions, or deny the application. The Planning Board shall submit its decision on the application to the Code Enforcement Officer.

401.3.1 Approval by the Planning Board of an application does not constitute evidence of acceptance by the Town of Eddington of any road, easement, or open spaces shown on a plan.

401.4 Burden of Proof: The applicant shall have the burden of proof to show that the proposal meets the applicable review criteria and the standards contained in this Ordinance.

401.5 Rights not Vested: The submittal of the permit application to the Code Enforcement Officer or the Planning Board to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of M.R.S.A. Title 1, Section 302. The formal review process shall begin upon determination by the appropriate reviewing authority that a complete application has been received, any public hearings are held (if applicable), and the appropriate reviewing authority begins substantive review

401.6 Additional Information and Studies: The Planning Board may, at its discretion, retain expert independent technical assistance to supplement the evidence presented by the applicant. The cost of such expertise shall be borne by the applicant in accordance with the terms of an escrow account set up between the applicant and the Planning Board with assistance from the Town Manager. A permit for any approved application shall not be issued until all the applicable fees are fully paid.

401.7 Waivers: The Planning Board may vote to waive any of the review criteria or submission requirements when it finds that one or more of the review criteria or submission requirements are not applicable to the proposal due to the unique circumstances of the project, or when the applicant has proposed an alternative design that meets the intent of this Ordinance.

401.7.1 The applicant may request a waiver and shall submit all the necessary information to support the waiver request.

401.7.2 The Planning Board shall consider the written waiver request after it deems the application complete. The first item of application review shall be to determine whether a waiver shall be granted. If the Planning Board does not grant the waiver, the applicant shall submit any required information as applicable to complete the application. The Planning Board may vote to continue the application review until such time as the applicant submits any required information.

401.8 Conditions: The Planning Board/Code Enforcement Officer may attach conditions to the application that it finds necessary to further the purposes of this Ordinance. Conditions are limited to further address items already contained in this Ordinance. A condition may not be imposed to regulate any item not specifically discussed in this Ordinance.

In determining whether conditions are appropriate or necessary, the Planning Board/Code Enforcement Officer shall consider the unique features of the site and surrounding area, the proposed use and proposed structure. All conditions shall be listed on the permit and shall be enforceable under the provisions of this Ordinance.

402 Review Criteria:

The applicant for a permit review shall demonstrate that the proposed use, project or activity meets the review criteria listed below. The Planning Board/Code Enforcement Officer shall approve an application only after making a written finding that all of the following criteria have been met (In making their determination they shall be guided by the performance standards in Chapter 8.):

402.1 The application is complete and the applicable fee has been paid.

402.2 The proposed activity will not cause soil erosion during construction or when complete.

402.3 The proposed activity will not have an adverse impact upon wetlands or waterbodies.

402.4 The proposed activity will provide for adequate storm water management.

402.5 The proposed activity will provide for adequate sewage disposal.

402.6 The proposed activity has sufficient water to meet potable and fire suppression requirements. The proposed activity will not pose an undue risk of fire, and the property will be accessible to emergency vehicles.

402.7 The proposed activity will dispose and treat solid and hazardous waste in conformance with all applicable local, state and federal laws and regulations.

402.8 The proposed activity will not adversely affect the quality or quantity of groundwater.

402.9 The proposed activity will not cause road congestion or unsafe conditions with respect to existing and proposed roads and access points.

402.10 The proposed activity will not have an adverse impact upon scenic, historic or archeological resources, and wildlife and animal habitat.

402.11 The proposed activity shall not have an adverse impact upon historic and scenic areas as identified in the Comprehensive Plan or by the Town.

402.12 The proposed activity will not have a significant detrimental effect on the use and peaceful enjoyment of abutting properties as a result of noise, vibration, fumes, odor, dust, glare, or other causes.

402.13 The application conforms to all the applicable provisions of this Ordinance.

403 Code Enforcement Officer Review:

The following requirements shall apply to all those land use activities that require review by the Code Enforcement Officer as listed in the land use table.

403.1 Application Procedure:

Within 14 calendar days of receiving an application, the Code Enforcement Officer shall determine if the application is complete and notify the applicant whether the application is complete, or if incomplete, the materials necessary to make the application complete. The Code Enforcement Officer shall render a final decision on the complete application within 14 calendar days.

403.2 Submission Requirements: A permit application shall contain the following information:

403.2.1 Name, address and telephone number of the applicant and applicant's agent if applicable.

403.2.2 Property location, including map and lot number.

403.2.3 Verification of right, title or interest in the property.

403.2.4 Receipt of the application fee.

403.2.5 Construction schedule, including beginning and completion dates.

403.2.6 Plumbing and subsurface wastewater disposal applications or permits, if applicable.

403.2.7 A complete description of the project, including how the proposal conforms to the review criteria.

403.2.8 A map drawn to scale showing the location, boundaries, elevations, uses and size of the following: site, structures setbacks, parking areas, access points, erosion control, stormwater management, wetlands, waterbodies, easements, rights- of-way, subsurface wastewater test pits and systems, and existing and proposed wells.

403.2.9 A scaled drawing including a floor plan and side, front and rear profiles of any proposed new or enlarged structures.

403.2.10 Any other information necessary to show that the proposal conforms to the applicable review requirements of this Ordinance.

404 Planning Board Review:

The following requirements shall apply to all land use activities that require Planning Board Review as listed in the land use table.

404.1 Application Procedures:

404.1.1 For projects of sufficient complexity, it is advisable to request a pre-application meeting with the Planning Board. This may be initiated by the applicant, the Code Enforcement Officer or the Planning Board.

404.1.2 The applicant shall submit 9 copies of a complete application to the Town Manager or Code Enforcement Officer at least 14 calendar days before a regular scheduled meeting of the Planning Board. The Code Enforcement Officer shall place the application for consideration on the Planning Board agenda and distribute copies of the application to the Planning Board as soon as possible after it is received.

404.1.3 The Planning Board shall first review the application for completeness. If the application is not complete, the Board shall inform the applicant what materials are required and place the application on the agenda of the next meeting to finish the completeness review. If the application is complete, the Planning Board may schedule a public hearing on the application. The Planning Board shall make a final decision within 90 days of beginning substantive review of a complete application. Unless extenuating circumstances such as weather or natural disasters force cancellations of regular meetings, the review time line is extended accordingly. Or, if the application necessitates outside expertise and additional testing as allowed in the review process, the 90 day time frame is suspended until the Board receives and reviews the requested information.

404.2 Submission Requirements:

A permit application shall contain the following information:

404.2.1 All the information required for a Code Enforcement Officer Review.

404.2.2 Waiver request form if applicable.

404.2.3 Engineered drawings showing the location and construction details for all proposed roads.

404.2.4 Traffic data for the site, including an estimate of the amount of traffic to be generated on a daily basis and at peak hour.

404.2.5 Information showing that the applicant has the financial and technical capacity to meet the provisions of this Ordinance and develop the project according to the submitted application.

405 Performance Guarantee:

405.1 The Planning Board shall, as a condition of review approval, require a performance guarantee, as per Section 710, for the construction of a road and may require a performance guarantee for other public improvements such as storm water control features and structures, erosion control, essential services and utilities, buffers and screening and parking when it determines that the construction of such improvements will have an impact upon the development of surrounding area.

Chapter 5: Nonconforming Lots, Structures and Uses

501 Purpose:

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

502 General Provisions:

502.1 Except as hereafter specified, no building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, moved or altered and no new lot shall be created unless in conformity with all the regulations herein specified for the district in which it is located.

502.2 Non-conforming structures, lots and uses may be transferred, and the new owner may continue the non-conforming use or continue to use non-conforming structure or lot, subject to the provisions of this Ordinance.

502.3 This Ordinance does not require a permit for the normal upkeep and maintenance of non-conforming uses and structures, including repairs or renovations which do not involve expansion of the non-conforming use or structure and such other changes in a non-conforming use or structure as federal, state or local building and safety codes may require.

503 Non-Conforming Lots:

503.1 A legally non-conforming lot of record that existed on the effective date of this Ordinance can be built upon, providing that setbacks can be complied with or the Board of Appeals grants a variance for setbacks.

503.2 No portion of a non-conforming lot of record in existence as of the effective date of this Ordinance shall be sold or otherwise conveyed to create further nonconformity.

503.3 Conveyance of Developed and Contiguous Nonconforming Lots of Record:

The Planning Board shall grant a Conveyance Permit to single or joint owners of said lots after review if said lots met the following conditions:

503.3.1 If two or more contiguous and developed lots of record are in the same single or joint ownership of record at the time of adoption of this Ordinance, and if each lot contains a residence built in conformity with existing regulations at the time of its construction, and each lot currently meets the standards of the State Plumbing Code within its boundaries, they may be conveyed separately or together. Any undeveloped lot of record in the same ownership as a contiguous developed lot (or lots) shall be added to one or divided between said lots to bring them into conformity or closer to conformity with lot sizes in the zone. Said dividing of the undeveloped lot shall be in a manner consistent with the development on the lots to maximize their conformity, and so as not to create another nonconforming lot.

503.3.2 A “developed” lot shall mean one containing a residence. The presence of an accessory building or other structure not containing a dwelling unit shall not constitute development.

503.3.3 The application for a conveyance permit shall contain a plan to show all lots to be conveyed and the dividing of contiguous or intervening vacant lots to said lots drawn to scale, locations of on-site subsurface wastewater disposal systems, a copy of the original deed(s) to the applicant(s) of the lots, and the names of the abutting property owners to all lots on the plan. The applicant shall provide evidence that each lot to be conveyed meets the State Plumbing Code within its boundaries, if requested by the Board.

503.3.4 A developed nonconforming lot of record contiguous to a developed conforming lot of record, both in the same single or joint ownership, may be conveyed separately or together under the provisions of this Section, at adoption of this Ordinance.

504 Non-Conforming Structures:

504.1 A non-conforming structure may be repaired, maintained and improved but shall not be added to or expanded except as follows:

504.1.1 Expansions are permitted if they conform to all the applicable dimensional requirements except lot size and frontage.

504.1.2 Expansions are permitted when they do not cause any further increase in the linear extent of the nonconformity of the existing structure with respect to the required setback from any lot line and will extend no further into a setback area than does any portion of the existing structure.

504.2 A non-conforming structure that is removed or destroyed may be replaced as follows: The structure shall be replaced to conform to the current applicable dimensional requirements to the greatest extent possible taking into account the existing foundation, topography, water supply and sanitary disposal. The Planning Board shall make the determination if the proposal meets the dimensional requirements to greatest extent possible.

505 Non-Conforming Uses:

505.1 A non-conforming use that is discontinued for a period of 12 consecutive months may not be resumed. A use shall be considered discontinued if the property owner’s intent is to give up legal right to continue the existing non-conforming use. The property owner’s intent shall be judged by some overt act such as, but not limited to, removing advertising signs, removing fixtures, equipments, goods, or by allowing the structure to become dilapidated. The use of land, buildings, or structures shall hereafter conform to the provisions of this Ordinance.

505.2 Whenever a non-conforming use is changed to a conforming use, the property shall thereafter conform to the provisions of this Ordinance.

505.3 A non-conforming use may be changed to another non-conforming use by requesting a permit review from the Planning Board. The Planning Board may approve such a change when

it finds that the proposed non-conforming use will not create any more adverse impact or nuisance than the original non-conforming use and the proposal conforms to all the applicable provisions of this Ordinance. In making this determination, the Planning Board shall consider all adverse impacts, including but not limited to the following: noise, lighting, parking, traffic, and environmental impacts.

505.4 A non-conforming use may be expanded by up to 30% in size after obtaining approval from the Planning Board. The Planning Board may approve such an expansion when it finds that the proposed expansion will not create a nuisance or negative impact upon adjacent properties greater than the existing non-conforming use and that the proposed expansion conforms to all the applicable provisions of this Ordinance. Such an expansion must meet the setback requirements for that zone.

Chapter 6: Zoning Districts

601 Establishment of Districts:

601.1 For the purposes of this Ordinance, the Town of Eddington is divided into the following districts:

Mixed Use District
Commercial District
Rural Residential District
Rural A District
Conservation District
Shoreland District

602 Location of Districts:

602.1 Said Districts are located and bound as shown on the Official Zoning Map, entitled “Zoning Map for the Town of Eddington, Maine,” dated _ or as most recently amended, and on file at the Town Office. The Official Map shall be signed by the Town Manager and Chairman of the Planning Board at the time of adoption or amendment of this Ordinance certifying the date of such adoption or amendment. Additional copies of this may be seen at the Town Office. The official zoning map does show Shoreland Zoning Districts, however, said districts are governed by the Shoreland Zoning Ordinance and official Shoreland Zoning Map.

603 Uncertainty of Boundary Locations:

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

603.1 Boundaries indicated as approximately following the centerlines of roads, highways, or alleys shall be construed to follow such centerlines;

603.2 Boundaries indicated as approximately following well-established lot lines shall be construed as following such lot lines;

603.3 Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;

603.4 Boundaries indicated as following railroad lines shall be construed to follow such lines;

603.5 Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of natural change in the shoreline, shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the center line of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such center lines;

603.6 Boundaries indicated as being parallel to or extensions of features indicated above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

603.7 Where natural or man-made features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered above, the Board of Appeals shall interpret the district boundaries.

604 Division of Lots by District Boundaries:

604.1 Where a zoning district boundary line divides a lot or parcel of land of the same ownership of record at the time such line is established by adoption or amendment of this Ordinance, the regulations applicable to the less restricted portion of the lot may not extend into the more restricted portion of the lot. The regulations applicable to the more restricted portion are permitted to extend into the less restricted portion.

605 District Purpose:

605.1 Mixed Use District:

Encompasses land in the more densely developed areas of the town. A variety of commercial, residential, governmental and institutional uses exist here, offering convenient access to many kinds of activities. Allowable lot sizes are smaller than in other districts to foster compact development patterns and pedestrian access. It seeks to protect the existing character and to ensure that future development is compatible with the scale and size of existing development.

605.2 Commercial District:

Includes land areas of the town where existing businesses and industry are located and which are well suited to such development due to transportation access. The district seeks to encourage economic development by providing locations appropriate for future business development while setting minimal standards to control the external effects of such activities (noise, dust, fumes, odors, traffic, waste, discharges, etc.) This zone is intended to encourage the concentration of commercial and industrial development to the mutual advantage of customers and merchants, and at the same time, is so located as to prevent undesirable conflict with residential and business uses and reduce traffic congestion in those areas.

605.3 Rural Residential District:

The purpose of this district is to maintain the rural residential character of the Town, to provide open spaces, and provide for single-family residential dwellings. Single family and two family residential units are permitted as well as home occupations. Subdivisions must be designed as Open Space developments to encourage the preservation of rural land areas.

605.4 Rural A District:

This zone is intended to maintain the rural character of the Town, protect agricultural and forestry uses, provide open spaces for wildlife habitat, and provide for single-family residential dwellings with larger lot sizes. Single-family residential units are permitted, along with home occupations. Subdivisions will have to be designed as Open Space Developments to maximize the preservation of rural land areas. Natural resource-based businesses and/or industries (such as outdoor recreation, greenhouses, and stables) and commercial development of agricultural and commercial forestry operations are permitted.

605.5 Conservation District:

This district is restricted to forestry uses and research.

605.6 Shoreland District:

See separate Shoreland Zone Ordinance

606 District Use Chart**Legend**

COM: Commercial District

MD: Mixed Use District

RR: Rural Residential

RA: Rural A District

C: Conservation District

Y: Allowed without permit

N: Not allowed

C: Allowed with CEO Review

P: Allowed with Planning Board Review

Activity	COM	MD	RR	RA	C
<u>Commercial and Industrial Uses</u>					
Adult entertainment	P	N	N	N	N
Auction Facility, Antique Sales	P	P	N	P	N
Bed and Breakfast	N	P	P	P	N
Commercial greenhouse	P	P	P	P	N
Commercial Kennel	P	N	N	P	N
Commercial/Service Less than 3,000 square feet	P	P	N	N	N
Commercial/Service more than 3,000 square feet	P	N	N	N	N
Cottage industry	C	P	P	P	N
Essential Services	C	C	C	C	C
Fuel storage/ distribution	P	N	N	N	N
Indoor Commercial Recreation/Amusement	P	P	P	N	N
Junk yards, Auto Graveyard, Auto Recycling	P	N	P	N	N
Kiosks	P	P	N	N	N
Portable sawmills	C	C	C	C	C
Public Accommodation/Hotel/Motel	P	N	N	N	N
Restaurant	P	P	N	N	N
Self-storage	P	P	P	N	N
Storage/warehouse	P	N	N	N	N
Transfer Station/Recycling/Waste Handling	P	N	N	N	N
Truck/Freight terminal	P	N	N	N	N
Vehicle repair/service	P	P	N	N	N
Vehicle sales	P	P	N	N	N
Veterinary Clinic	P	P	P	P	N
<u>Institutional, Educational and Governmental Uses</u>					
Assembly/meeting space	P	P	N	N	N
Cemetery and crematoriums	N	P	P	P	N
Churches	P	P	P	N	N
Day Care or Nursery School	P	P	P	P	N
Community Nonprofit	P	P	N	N	N
Government offices and structures	P	P	N	N	N
Hospitals/ Clinics	P	P	N	N	N
Nursing Homes & Congregate Care	P	P	N	N	N

Activity	COM	MD	RR	RA	C
Schools/Educational Facilities	N	P	P	N	N
Social and Fraternal Organizations	N	P	P	N	N
<u>Residential Uses</u>					
Accessory Uses and Structures	C	C	C	C	C
Boarding, Rooming or Lodging House	N	P	N	N	N
Community Living Facility	N	C	C	C	N
Home Office	Y	Y	Y	Y	Y
Home Occupations	P	P	P	P	N
Manufactured Home	N	C	C	C	N
Manufactured Home Park	N	P	N	N	N
Multi-family Dwelling	N	P	P	N	N
Open Space Development	P	P	P	P	N
Senior Housing Development	N	P	P	N	N
Single Family Dwelling	N	C	C	C	N
Two Family Dwelling	N	C	C	C	N
<u>Rural Uses</u>					
Agriculture (excluding livestock)	N	Y	Y	Y	N
Agriculture (including livestock production)	N	C	C	C	N
Agricultural Processing Facility	P	N	N	N	N
Small Scale Animal Keeping	N	Y	Y	Y	N
Campgrounds/RV Parks/Sporting Camps	N	P	P	P	N
Horticulture/Silviculture/	N	Y	Y	Y	Y
Individual Private Campsite	N	C	C	C	N
Re-Use of Existing Agricultural Buildings	P	P	P	P	P
Log yards	P	N	P	P	P
Lumber mills/Sawmill	P	N	P	P	N
Passive Outdoor Recreation	Y	Y	Y	Y	Y
Mineral Extraction Operation	N	N	P	P	N
Riding Stables	N	P	P	P	N
Roadside Farm stands	Y	Y	Y	Y	Y
Timber harvesting	Y	Y	Y	Y	Y
Earth moving /Fill 0 to 300 cu. Yards cumulative total of material	Y	Y	Y	Y	Y
Earth Moving/ Fill between 300 & 1,000 cu. yards accumulative total of material	C	C	C	C	C
Earth Moving/Fill more than 1,000 cu. Yards accumulative total of material	P	P	P	P	N
Water Extraction	N	N	N	N	N

607 Minimum Dimensional Requirements:

All structures are subject to the following dimensional requirements, except accessory residential structures.

Legend

COM: Commercial District MD: Mixed Use District

RR: Rural Residential

RA: Rural A District

C: Conservation District

	COM	MD	RR	RA	C
Lot Size Acres	1 acre	1 acre	2 acres	4 acres	10 acres
Road Frontage	100 ft.	100 ft.	200 ft.	400 ft.	400 ft.
Front Setback	30 ft.	30 ft.	30 ft.	30 ft.	100 ft.
Side Setback	15 ft.	15 ft.	25 ft.	50 ft.	50 ft.
Rear Set Back	15 ft.	15 ft.	20 ft.	50 ft.	50 ft.
Height-Maximum	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
Shore Frontage	200 ft.	200 ft.	200 ft.	200 ft.	200 ft.

- All dimensions are in feet unless otherwise indicated
- All dimensions to be measured from the applicable boundary property lines
- All side, rear and front setbacks are measured between the property boundary and the closest portion of a structure including eaves, porches, decks, steps, and similar building features .

608 Exceptions to the Minimum Requirements:

608.1 Accessory residential structures may be set back from side and rear lot lines a minimum of 10-feet

608.2 The following are exempt from the height requirement windmills, telecommunication towers, and chimneys.

608.3 Any lot legally existing prior to the enactment of this Ordinance and located in the Rural Residential or Rural A Districts which is less than the minimum lot size as established in the Minimum Dimensional Table may conform to the setback requirements in effect prior to the enactment of this Ordinance.

609 Multi-Family Density**609.1 Mixed use District**

The multi-family density in the Mixed Use District is one acre for each of the first two dwelling units and 20,000 square feet for each additional unit.

609.2 Rural Residential District

The multi-family density in the Rural Residential District is 2 acres for each of the first two units and one acre for each additional unit.

609.3 Rural A District

The multi-family density in the Rural A District is 4 acres for each of the first two units and 2 acres for each additional unit.

Chapter 7: General Performance Standards

701 General Lot Requirements:

701.1 If more than one principal building is constructed on a lot, all dimensional requirements shall be met separately for each principal building except as allowed as per section 703 of this chapter.

701.2 No part of a yard or other open space required on any lot for any building shall be included as part of the yard or open space similarly required for another building or lot.

701.3 New lots shall have side lot lines perpendicular to the road to the greatest extent practical.

701.4 Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels to meet minimum lot requirements are prohibited.

701.5 The required road frontage for a corner lot shall be measured along a single lot line separating the lot from one of the roads. All structures placed on a corner lot shall meet the required road front setback from each road.

701.6 Road frontage along a road curve shall be measured along the road curve.

701.7 The required road frontage for a lot shall not be reduced by the location of a driveway, common driveway, entrance, or a road serving another lot.

701.8 The minimum right-of-way for any driveway, common driveway, or entrance shall be a minimum of 60 feet.

702 Antennas/ Dishes:

702.1 The location of all freestanding antennas and dishes shall meet the setback requirements of the district in which it is located.

703 Primary Dwelling and Lot Size:

703.1 Owners of single family dwellings may add a single accessory housing unit regardless of the lot size and density requirement for the district in which the property is located, provided they comply with all the requirements, including minimum lot size, of this section.

703.1.1 The unit would be created in an owner-occupied single family dwelling or an attached garage.

703.1.2 The floor area of the accessory unit would be no more than 800 square feet.

703.1.3 The accessory unit shall not be deeded separately or converted into condominium ownership

703.1.4 All applicable requirements of the State of Maine Plumbing Code and Subsurface Wastewater Disposal Rules shall be met. The septic system must be adequate

to accept additional living space. All applicable requirements of current State and Federal Electrical and Building Codes shall be met.

704 Accessory Units

704.1 To allow attached dwelling units as long as they meet all setback requirements except lot size. (800 square feet, 1 accessory unit per lot size, not conveyed separately and attached or part of the primary dwelling.)

704.2 A detached building is permitted if it meets all requirements including minimum lot size.

705 Swimming Pools:

705.1 A fence shall be erected and maintained around every in-ground private or public swimming pool. The fence shall be a minimum of 4-feet in height above ground level and shall have no openings greater than 4-inches in diameter. All gates or doors through the fence enclosure shall be capable of being securely fastened. A structure or building may be used as part of the enclosure.

706

This section reserved for future use and is intentionally left blank.

707 Outdoor Lighting:

707.1 The outdoor lighting standards shall apply to all land use activities except for residential dwellings and agricultural activities.

707.2 Lighting fixtures shall be shielded and hooded so that the lighting fixture is not exposed to normal view by motorist, pedestrians, and buildings located on adjacent properties. Light shall be directed downward so as not to light up the night sky.

707.3 Outdoor lighting shall not produce a strong, dazzling light, flashing or reflection of light beyond the property lines onto adjacent properties. The light level at all property lot lines shall not exceed 0.5 foot-candles as measured at ground level.

708 Outside Material Storage:

708.1 Outside material storage standards shall apply to all land use activities except residential dwellings.

708.2 Outdoor storage areas used for the collection of solid waste, vehicles, junk automobiles, vehicle parts, building materials, machinery, sand and gravel, or other such items shall be screened from the view of all property lines. Walls, fences, vegetation or a combination of materials may be used for the screen.

708.3 Materials displayed outside for sale at commercial establishments are permitted and shall conform to the commercial standards contained in Chapter 10 of this Ordinance.

709 Noise Standards:

709.1 The following uses shall comply with the noise standards: all new and expanded or enlarged existing commercial and industrial uses as listed in the District Use Chart; new and expanded or enlarged existing lumber/sawmills, and re-use of existing agriculture buildings.

709.2 The proposed development shall not cause the background noise level to increase by 10 Decibels (DBA) during the day and 5 DBA at night. Sounds emanating from safety signals, warning devices, emergency pressure relief valves, other emergency or public safety devices and temporary noise such as construction activity are exempt from these requirements. In no case shall the ambient noise level as measured from the property boundary exceed the following absolute noise criteria:

The maximum permissible noise from any continuous, regular, or frequent source of sound within a development shall be no more than 60 decibels between the hours of 7: 00 a.m. to 9:30 p.m. and 45 decibels at other times unless more strictly specified elsewhere in this ordinance for a given activity.

709.3 Noise shall be measured by a meter set on the A-weighted response scale, slow response. The meter shall meet the American National Standards Institute (ANSI S1.-1961) "Specification for General Purpose Sound Level Meters." Sound levels shall be measured at least 4 feet above ground level at the property boundary.

709.4 The applicant is responsible for measuring noise levels. Background noise levels shall be measured at each property boundary line. A day and night reading shall be taken at the same location along each of the property boundary lines. Readings shall not be taken when construction activity, abnormal traffic conditions or other extraordinary conditions are occurring within 500 feet of the property boundary.

709.5 The applicant shall modify the development as necessary to ensure that the noise emanating from the project conforms to the noise limits set forth in this section. The applicant shall provide the Planning Board written certification from an engineer or other appropriate professional that the noise measurements are accurate and the noise from the completed development will conform to this section.

710 Performance Guarantee:

710.1 These standards for a performance guarantee shall be followed whenever required by this Ordinance. When required, the applicant shall submit the appropriate performance guarantee to the Code Enforcement Officer or the Planning Board as applicable.

710.2 The performance guarantee shall include one of the following:

710.2.1 A cashier check, in an amount equal to the expense of installing the public improvements, made payable to the town.

710.2.2 A performance bond, in an amount equal to the expense of installing the public improvements, made payable to the town, issued by a surety company.

710.2.3 A conditional agreement with the Town, in a form suitable for recording at the Penobscot Registry of Deeds, shall be recorded at the registry with the condition whereby no portion of the project may be sold or no building permit or certificate of occupancy issued until the applicant installs all public improvements required by Section 405.1. A phased development plan may be incorporated into the conditional agreement. This agreement shall be binding with all heirs, successors and assigns.

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

710.2.5 Escrow Account - A certified check, savings account, or CD, for which the municipality must be named as sole owner, and who may withdraw funds only when the reclamation does not follow the agreed-upon plan. In addition, the principal and any earned interest shall be returned to the operator when the reclamation is completed, unless the municipality has found it necessary to draw on the account. In the latter case, the residual from the account, if any, and its earned interest, will be returned to the developer proportionately.

710.3 The Planning Board or the Code Enforcement Officer as applicable, prior to approval of the application, shall consult with the Selectmen on the terms proposed by the applicant for the performance guarantee. The Selectmen may determine that the amount of the cashier check or performance bond or the terms of the performance guarantees be amended or revised. The Planning Board or the Code Enforcement Officer shall require that any determination made by the Selectmen be incorporated into the performance guarantee.

710.4 Prior to the release of the performance guarantee, the Code Enforcement Officer and the Town Manager shall determine that the proposed improvements meet or exceed the design, construction and inspection requirements specified in this Ordinance, development plans and the subdivision Ordinance as applicable.

710.5 The applicant shall submit to the town all inspection reports required by Ordinances of the Town of Eddington indicating that the proposed public improvement complies with all Ordinance requirements.

710.6 If the Code Enforcement Officer or the Selectmen finds that any of the public improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall take any steps necessary to preserve the town's rights, including but not limited to proceeding against the performance guarantee.

Chapter 8: Environmental Performance Standards

801 Erosion Control:

801.1 Purpose Erosion control measures are necessary to ensure that soil and sediment do not flow into waterbodies, drainage structures, road drainage ditches and structures, and neighboring properties.

801.2 Applicability: All activities which involve filling, grading, excavation, soil disturbance and other similar activities which result in unstable soil conditions shall conform to the requirements of this subsection. Any of the above listed activities which also require a permit according to this Ordinance shall include a written soil erosion control plan with the permit review application.

801.3. Plan: The erosion control plan shall address the following:

801.3.1 Temporary runoff control features.

801.3.2. Permanent stabilization structures.

801.3.3 Mulching and re-vegetation of disturbed soils.

801.4 Maintenance: The applicant, property owner or agent shall be responsible for maintaining all erosion control features until the site is permanently stabilized. Any soil or sediment that flows into a waterbody, drainage structure, road drainage ditches and structures or onto neighboring property shall be removed by the applicant, property owner or agent at the applicant's expense.

801.5 Standards: All erosion control measures shall conform to the "Maine Erosion and Sediment Control Best Management Practices," published by the Maine Department of Environmental Protection, March 2003, as revised.

801.6 Additional Standards:

801.6.1 In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slope where high cuts and fill may be required shall be avoided where possible, and natural contours shall be followed as closely as possible.

801.6.2 Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.

801.6.3 Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, using riprap, sod, seed and mulch, or

other effective measures. In all cases, permanent stabilization shall occur within 9 months of the initial date of exposure.

802 Stormwater:

802.1 General Standards:

All new construction and development shall be designed to minimize storm water runoff from the site in excess of natural predevelopment conditions, and to prevent off-site damage to public or private property. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of storm waters. When the storm water is directed off-site, adequate provision shall be made for disposal of all storm water and any drained ground water through a management system of swales, culverts, under-drains and storm drains.

802.2 Additional Standards:

802.2.1 The additional standards shall apply to all developments that have a cumulative total of 3,000 square feet of all structure footprints, contains more than 10,000 square feet of impervious area or are a subdivision.

802.2.2 A storm water control plan shall be designed by a professional engineer. All storm water features shall be designed in conformance with "Stormwater Management for Maine: Best Management Practices," published by the Maine Department of Environmental Protection, 1995 or as most recently amended. A stormwater control plan that is developed according to the requirements of the Department of Environmental Protection Regulations, Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Waterbodies Most At Risk from New Development, shall be deemed to be a suitable equivalent to these standards with the approval of the Code Enforcement Officer.

802.2.3 All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year and 25-year, 24-hour duration frequencies based on rainfall data for Bangor, Maine.

802.2.4 The stormwater system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

802.2.5 Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The applicant shall be responsible for financing any improvements to the existing drainage system required to handle the increased storm flows.

802.2.6 The developer shall not increase the rate of or obstruct the flow of drainage into any adjacent land, any ditch or drainage structure existing on any road or other location

within the jurisdiction of the town by the construction of any development including a driveway, entrance, or road.

802.2.7 The minimum pipe size for any storm drainage pipe shall be 15 inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. The pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom the pipe extending to six inches above the top of the pipe. The minimum culvert pipe length shall be 20 feet.

803 Waterbodies:

803.1 The location of all rivers, streams, brooks, ponds, wetlands and drainage ways shall be identified on all permit applications. Beginning with Habitat Maps, Shoreland Zoning Maps, Topographic Maps, and data from the most recent comprehensive plan shall be used to identify waterbodies.

803.2 All structures and impervious areas shall be setback from all waterbodies in conformance with applicable requirements of the Town of Eddington Shoreland Zoning Ordinance, and all state laws and regulations.

803.3 Waterbodies shall not be developed or disturbed unless the applicant obtains all necessary permits from state and federal agencies. The applicant shall include evidence that all necessary state and federal permits have been obtained prior to a permit being issued.

803.4 Additional Standards:

803.4.1 The additional standards shall apply to all subdivisions and any other development which requires additional stormwater measures as per section 802.2

803.4.2 An on-site wetland delineation shall identify all wetlands on the property regardless of size. The wetlands shall be shown on a site map of the proposed development indicating their boundaries.

804 Subsurface Waste Disposal:

804.1 The installation of all water supply and subsurface wastewater disposal systems shall conform to the most recent edition of the Maine State Plumbing Code. Plumbing and sewage disposal systems shall be installed only after a plumbing permit has been obtained.

804.2 Whenever a subsurface wastewater system is proposed, the applicant shall submit a disposal permit application (form HHE-200 and any other applicable data) for any new lot or expansion of an existing system in order to obtain a permit.

804.3 An application for a subdivision which requires subsurface wastewater disposal shall include evidence that each proposed lot has suitable soils to support the proposed development. A test pit location shall be shown for each lot and marked on the subdivision plan. Soil data for

each test pit location shall include all the pertinent information contained on page one of the HHE-200 subsurface wastewater application form.

804.4 Central subsurface wastewater collection systems may be used in conformance with the Maine Subsurface Wastewater Disposal Rules and the following: The ownership, maintenance, future replacement and liability of the central collection system shall be included with the application. An ownership association shall be developed whenever different owners use a common disposal system. Deed covenants for each lot owner shall require mandatory membership in the association.

805 Potable Water Supply:

805.1 An adequate supply of potable water shall be supplied to all buildings and structures used for human habitation and whenever required by town or state requirements.

805.2 Water proposed to be used for structure fire prevention/suppression shall be designed by appropriate professionals and shall be reviewed and approved by the Eddington Fire Department.

805.3 All subdivision applications shall include documentation from a hydrologist or a well driller familiar with the area, stating that adequate water is available to meet the projected demands of the development.

805.4 Any proposed subdivision shall connect to a public water supply if public water supply lines are located within 500 feet of the property line of the subdivision, including any reserved land area.

805.4.1 The applicant of a proposed subdivision shall obtain from the water district a signed statement indicating that an adequate supply of water is available to supply the current and anticipated needs of the subdivision.

805.4.2 The cost of the water supply extension shall be the sole responsibility of the subdivision applicant.

806 Phosphorus Control:

806.1 These standards shall apply to campground proposals, all developments that contain structures with a footprint greater than 3,000 square feet and/or more than 10,000 of impervious area, and subdivisions or developments that are wholly or partially located within the direct watershed of a Great Pond.

806.2 A phosphorus control plan shall be developed in accordance with the design criteria contained in the most recent edition of "Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development," published by the Maine Department of Environmental Protection, revised September 1992.

807 Solid Waste Provisions:

807.1 All activities shall provide for the disposal of all solid wastes on a timely basis and in an environmentally safe manner.

807.2 At the time of application, the applicant shall specify the amount and exact nature of all waste to be generated and indicate how the materials will be disposed. A plan to dispose of all industrial or chemical wastes shall also be submitted indicating how the materials will be stored, handled and disposed to an approved facility in conformance with all applicable state and federal regulations.

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

808 Historic, Archeological, Wildlife Habitat, Scenic Area, and Rare and Natural Area Provisions:

808.1 All proposed new development shall show the locations of any historic and archeological sites, wildlife habitat, scenic areas and rare and natural areas. If any of these areas are on the site, a protection plan shall be developed according to the following:

808.1.1 If any portion of the site is designated as a significant archeological or historic site by the Maine State Historic Preservation Commission, Comprehensive Plan, or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations. The applicant shall review the archeological predictive maps, and historic areas identified by the Maine State Historic Preservation Commission to determine the status of the development site.

808.1.2 The Natural Areas Program data and scenic areas identified by the Town of Eddington shall be reviewed to determine the status of the site. If any portion of the site is within an area designated as a scenic area or a unique natural area by the Maine Natural Areas program, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.

808.1.3 The Code Enforcement Officer or the Planning Board may require the applicant to consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist to further evaluate the site or to develop a habitat protection plan for the site. If any portion of the site is within a wildlife habitat area, the applicant shall develop measures to protect these areas from environmental damage and habitat loss. The applicant shall review the wildlife data as identified by the Beginning with Habitat Maps for the Town of Eddington to check the status of the site.

808.1.4 Wildlife habitat areas shall include the following:

808.1.4.1 Habitat of endangered species appearing on the official state or federal list of endangered or threatened species.

808.1.4.2 High or moderate value waterfowl and wading bird habitats as defined by the Maine Department of Inland Fisheries and Wildlife.

808.1.4.3 Deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

809 Earth Moving, Excavation, Removal of Fill or Land:

809.1 General:

809.1.1 The following provisions shall apply to excavation, removal of fill or soil, earth loam, sand gravel, rock, peat, and/or other deposits. Excavation, removal, fill of land, or other earth moving activity which would result in erosion, sedimentation, impairment of water quality, or fish and aquatic life is prohibited. All land filling or deposit of demolition debris, hazardous waste, industrial waste, sludge, petroleum products, tires, radioactive waste and white goods are prohibited without prior approval by the Maine Department of Environmental Protection.

809.1.2 Excavation, removal or fill activities not requiring a permit. The following activities shall be allowed without a permit.

809.1.2.1 The excavation, removal or fill of 0 to 300 cubic yards accumulative total of material from or onto any lot.

809.1.2.2 Excavation, removal or fill activities associated with the construction of any structure for which a valid building permit or a valid plumbing permit has been issued.

809.2 Review and Permit Required:

809.2.1 All excavation, removal or fill activities not exempt in Section 809.1.2 of this Ordinance shall require a permit before the activity is commenced. In addition to the information required for a permit, the applicant shall conform with the provisions of the Mineral Extraction Operation (MEO) Addendum to this ordinance.

809.2.2 Issuance by the CEO of a permit in the 300-1,000 cubic yard range represents a finding by the CEO that all pertinent standards and criteria applicable to projects of that size have been met.

Chapter 9: Traffic Access, Roads and Parking Standards

901 Traffic Access Standards:

901.1 Applicability: The traffic access standards shall apply to all new or expanded driveways, entrances and roads. All driveways, entrances and roads that access onto a state road shall also comply with all applicable Maine Department of Transportation (MDOT) design standards.

901.2 Standards:

901.2.1 The number of access points shall be the minimum necessary to assure safe and proper vehicular access to the site. No more than two access points onto a single roadway will be allowed unless the Planning Board finds that additional access is necessary based upon the results of a traffic study. Where more than one road abuts the development, the Planning Board may require the developer to access the site exclusively from only the road with less potential for congestion and traffic hazard.

901.2.2 All roads which can be expected to carry traffic from the development shall have sufficient capacity or be suitably improved to accommodate the amount and types of traffic generated by the development.

901.2.3 Access points shall be designed to have sufficient capacity to avoid the stopping or standing of vehicles attempting to enter the development from the road. Where necessary the developer shall install turning lanes, traffic directional islands, frontage roads, signalization, or other traffic controls within the road. All such installations shall conform to the standards in the "Manual on Uniform Traffic Control Devices" published by the American Traffic Safety Services Association.

901.2.4 All access points shall be located to provide sight distance of 10 feet for each mile per hour of posted speed limit in both directions. Sight distance is measured from a point 10 feet behind the edge of the traveled way, with the height of the eye at 3 ½ feet, to the top of an object 4 ½ feet above the road surface.

901.2.5 All access points shall intersect the road at an angle as nearly to 90 degrees as site conditions permit, but in no case less than 75 degrees.

901.2.6 The curb radius for two-way entrances and roads shall be at least 20 feet. The curb radius for one-way entrances and roads with median islands shall be between 5 and 10 feet on the inside corner and at least 30 feet on the outside corner.

901.2.7 The width of an entrance and road shall be between 20 and 26 feet. For entrances and roads with a median island, the width shall apply to each side. Where truck traffic is a major element, the width may be increased to 40 feet.

901.2.8 From the edge of the traveled way, the access point should not exceed a grade of 3% for a minimum of 20 feet as site conditions permit, but in no case shall the grade exceed 8%.

901.2.9 All driveway and entrances shall be designed so that all maneuvering and parking of any vehicle shall take place outside of the right-of-way of the road and such that vehicles may exit the premises without backing onto the shoulder of the road.

902 Property Access Standards:

902.1 Applicability: All lots, developments and property shall have an access provided by a driveway, entrance, or road as defined in this section. No access may be granted on a lot that would make that lot non-conforming due to resulting insufficient frontage or acreage.

902.2 Driveway and Common Driveway Standards:

902.2.1 A driveway or common driveway may serve a residential dwelling which also includes a home occupation or cottage industry.

902.2.2 A driveway may serve one residential dwelling and shall have a minimum width of at least 10 feet.

902.2.3 A common driveway may serve up to two residential dwellings and shall have a minimum width of 12 feet and a minimum right-of-way of 60 feet.

902.3 Entrance:

An entrance shall serve a commercial and other nonresidential development and only provide access to a parking area or similar area designed for vehicle parking.

902.4 Rural/woodlot Way:

A right-of-way or similar way providing access to an undeveloped lot or lots which contain no buildings may be used but shall be upgraded to a driveway, common driveway, entrance or road when improved or developed.

902.5 Roads:

A road shall provide access to any property, lots or development not served by a driveway or entrance and shall be designed according to one the following:

902.5 .1 Rural road shall serve up to 10 residential dwellings or a development creating no more than 120 vehicle trips per day.

902.5.2 Local road shall serve between 11 and 30 dwellings or a development creating no more than 330 vehicle trips per day.

902.5.3 A major road shall serve more than 31 dwellings or a development creating more than 330 vehicle trips per day.

903 General Road Design Standards:

903.1 The centerline of the road shall be the centerline of the right-of-way to the greatest extent possible.

903.2 Any subdivision of 20 or more housing units and any commercial development expected to generate at least 200 vehicle trips per day shall be designed whenever possible to have at least two improved connections with existing or planned road.

903.3 Dead end roads shall be constructed to provide a cul-de-sac or T-type turnaround. A cul-de-sac shall be designed with a minimum pavement radius of 50 feet to the outer edge and 30 feet to the inner edge. A T-shaped turnaround shall be designed with two pavement extensions perpendicular to the road and extending a minimum of 60 feet from the centerline.

903.4 The Planning Board may require the reservation of a 50-foot right-of-way easement at the turnaround to provide for future continuation of the road.

903.5 All roads shall be designed to provide safe vehicular travel and traffic patterns. Insofar as possible, roads shall conform to existing topography, and excessive cuts and fills shall be avoided.

903.6 The intersections and common boundaries of subdivision roads shall be continuous and in alignment with existing roads whenever possible. New roads shall be designed to provide for the continuation of the road into adjoining land unless topography or other environmental features preclude future expansion.

903.7 All road names shall be subject to approval by the Board of Selectmen.

903.8 Drainage for all roads shall be designed in accordance to the stormwater standards in this Ordinance. Drainage shall be designed to prevent standing water on the road surface or the shoulder. No surface drainage shall be conveyed across a road surface or shoulder from another connecting road, driveway or entrance.

903.9 All subdivisions consisting of 4 or more lots shall contain provisions for vehicular connections to future projects on adjacent properties or the same lot whenever feasible.

903.10 The applicant is responsible for selecting the appropriate road classification for the size and density of the development. Future development which depends on the road for access is limited based upon the road classification.

903.11 The developer or applicant shall be responsible for upgrading and improving an existing road to these standards to accommodate any proposed expansion or new development which will be served by the existing road.

903.12 Driveways, Common Driveways and Entrances shall not be eligible for consideration for public acceptance. Only rural, local and major roads designed and constructed to according to the requirements of this Ordinance and with a bituminous pavement surface shall be eligible for consideration for public acceptance.

903.13 All new paved roads shall have striping applied to the centerline and along the shoulder.

903.14 Major roads shall be designed for a design speed of 45 miles per hour and all other roads shall be designed for a 35 mile per hour design speed.

904 Road Design and Construction:

904.1 Road Construction Standards Table:

	Major Road	Local Road	Rural Road
Right-of-way	60 feet	60 feet	60 feet
Travel Way width	24 feet	22 feet	20
Shoulder width	4 feet	3 feet	3 feet
Roadway crown	2%	3%	3%
Minimum centerline radii on curves	350 feet	250 feet	250 feet
Minimum tangent length between reverse curves	200 feet	150 feet	150 feet
Minimum grade within 75 feet of all intersections	3%	3%	3%
Maximum grade centerline	8%	8%	8%
Minimum fill slope	3/1 rear slope 4/1 front slope	3/1 rear slope 4/1 front slope	3/1 rear slope 4/1 front slope
Shoulder grade	1/2 inch per foot	1/2 inch per foot	1/2 inch per foot
Minimum culvert	18 inch dia.	15 inch dia.	15 inch dia.

904.2 Road Construction Materials Table:

	Major Road Note # 1	Local Road Note # 2	Rural Road Note # 2
Subbase course	18 inches	18 inches	18 inches
Base course	6 inches	6 inches	6 inches
Surface course for a gravel road	n/a	4 inches	4 inches
Surface course for a bituminous surface	Base 2 1/2 Surface 1 1/2	Base 2 Surface 1 1/4	Base 2 Surface 1 1/4

Note # 1 All major roads shall have a bituminous road surface.

Note # 2 Unpaved Local and Rural Roads are not eligible for public acceptance. See 903.12.

904.3 Gravel Subbase Materials Specifications:

The gravel subbase shall be gravel of durable particles free from vegetative matter, lumps or balls of clay and other deleterious matter. The gradation of the part that passes a 3-inch square sieve shall meet the grading requirements below. The maximum stone size shall be 6- inches.

Sieve Designation	Percentage by Weight Passing Square Sieve
¼ inch	25% – 70%
No. 40	0% - 30%
No. 200	0% - 5%

904.4 Gravel Base Material Specifications:

The gravel subbase shall be gravel of durable particles free from vegetative matter, lumps or balls of clay and other deleterious matter. The gradation of the part that passes a 3-inch square sieve shall meet the grading requirements below. The maximum stone size shall be 4-inches.

Sieve Designation	Percentage by Weight Passing Square Sieve
½ inch	45% - 70%
¼ inch	30% – 55%
No. 40	0% - 20%
No. 200	0% - 5%

904.5 Surface Gravel Material Specifications:

Surface gravel for use on gravel roads shall have no stone larger than 2- inches in size and shall meet the grading requirements below. The gradation of the part that passes a 3-inch square sieve shall meet the grading requirements below.

Sieve Designation	Percentage by Weight Passing Square Sieve
2-inch	95% - 100%
½ inch	30% – 65%
No. 200	7% - 12%

904.6 Bituminous Pavement Specifications:

The minimum standards for the base layer of pavement shall be MDOT specifications for plant mix grade “B” with an aggregate size of no more than ¾ maximum. The minimum standard for the surface layer of the pavement shall meet MDOT specifications for plant mix grade “C” or “D” with an aggregate size of no more than ½ maximum.

905 Road Construction Details:

905.1 Before any clearing has started on the right-of-way, the centerline and sidelines of the road shall be staked or flagged at 50-foot intervals.

905.2 Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush and other similar materials. All ledge, large boulders and tree stumps shall be removed from the right-of-way.

905.3 All organic materials shall be removed to a depth of 2-feet below the subgrade. Rocks and boulders shall be removed to a depth of 2-feet below the subgrade.

905.4 On soils which have been identified as not suitable for roads, the subsoil shall be removed to a depth of 2-feet below the subgrade and replaced with material meeting the specifications for the gravel subbase course. Road fabric material shall be used as deemed necessary by the Road Commissioner.

906 Submission Requirements:

906.1 The applicant shall submit detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed road. The plan shall be at a scale of one inch equal no more than 50 feet. The vertical scale shall be one-inch equal no more than 5 feet. The plan shall include the following information:

- (1) Date, scale and north point.
- (2) Intersections of the proposed road with existing roads.
- (3) Roadway and right-of-way limits, including edge of pavement and edge of shoulder.
- (4) Kind, size, location, material, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
- (5) Complete curve data shall be indicated for all horizontal and vertical curves.
- (6) Turning radii at all intersections.
- (7) Centerline gradients.
- (8) Size, type and locations of all existing and proposed utilities.

907 Road Maintenance:

907.1 All roads that are not dedicated to the Town or during such time prior to the actual acceptance by the Town shall be maintained by the subdivision owners or developer. A legal agreement indicating how the road will be maintained shall be submitted to the Planning Board. The Planning Board shall review the maintenance plan to ensure that sufficient provisions have been incorporated to maintain the road for the applicable time period.

907.2 A mandatory road maintenance agreement shall be developed for all properties to have access from the proposed road. The maintenance agreement shall be included on the property deed of each applicable property and shall include provisions for road maintenance, ownership of the road, and fees.

908 Road Inspection Requirements:

908.1 All roads shall meet the following inspection requirements:

908.2 The applicant shall at his/her expense hire a Professional Engineer licensed in the State of Maine to inspect the roadway construction. The engineer shall inspect the roadway during construction and certify in writing that the road was installed according to the road plans and the requirements of this Ordinance.

908.3 The applicant shall submit to the Road Commissioner and the Planning Board, the engineer's report certifying that the road meets or exceeds the road design plans and Ordinance requirements. The engineer's report shall include a sieve analysis and compaction test results.

908.4 The Road Commissioner or designee shall maintain a record of all road inspections and shall inspect the following:

- The right-of-way staking/flagging and clearing
- The road subbase course
- The road base course.
- Road drainage structures and features.
- The road surface course.

908.5 The applicant is responsible for notifying the Road Commissioner or designee when the road is ready for the applicable inspection.

908.6 The town may assign/hire a designee for the road commissioner to perform all the required road inspections.

908.7 The developer or applicant shall be responsible for making sure the road conforms to all inspection requirements and all road construction and design requirements.

908.8 If the road fails inspection, no building permits shall be issued until the road passes inspection,. See Section 202, Enforcement.

909 Road Acceptance:

909.1 A road may be considered for town acceptance only if the road conforms to the applicable standards of this section, the Selectmen vote to submit a warrant to the Town Meeting to consider dedication of a public way, and the Town Meeting votes to accept the road. Until such time that a road is accepted by a vote of the Town Meeting, the road shall be considered private and shall conform to the requirements of section 902.7.

909.2 The applicant shall petition the Board of Selectmen of the Town of Eddington to accept a road pursuant to Title 23 MRSA section 3025 and shall provide proof of the following:

909.2.1 The road has been designed, constructed and inspected in compliance with this Ordinance.

909.2.2 The road has a bituminous road surface.

909.2.3 The applicable requirements of the performance guarantee have been satisfied.

909.2.4 The road commissioner has submitted in writing a statement indicating the road complies with all Town ordinances and requirements and is eligible for consideration for acceptance.

909.3 The Board of Selectmen may submit a warrant to the town meeting containing an article for the purposes of accepting a dedication of a public way if the Board votes that the applicant has complied with the requirements of Chapter 9 of this ordinance.

910 Road Completion:

The road subbase, base and surface shall be completed and inspected before a building permit can be issued for any lot. The completed road shall extend across the full frontage of the lot. A bituminous surface shall be considered complete when both the asphalt base and asphalt surface materials are installed.

911 Parking Standards:

911.1 All development shall provide suitable off-road parking to serve the needs of the project.

911.2 The access to parking areas shall be designed to allow continuous and uninterrupted traffic movement on the public road, through the provision of adequate throat length, deceleration lanes, or other measures. No parking space shall be directly accessible from the public road.

911.3 Parking stalls shall be a minimum of 9 feet in width by 18 feet in length.

911.4 Loading bays shall be provided as necessary and shall be designed so as not to interfere with traffic flow.

911.5 Adequate off-road parking shall be provided according to the following:

Activity	Number of Spaces
Motel, Hotel	1 space per room
Nursing Care, Group Home	1/3 space per room
Detention Facility	1 space per employee at maximum shift
Place of Assembly	½ space per seat, based upon maximum capacity
Industrial & Manufacturing	1 space per 1,000 sq. feet of gross floor area
Retail & Office	3 spaces per 1,000 sq. feet of gross floor area
Warehouses	1 space per 1,000 sq. feet of gross floor area
Hospitals	6 spaces per 1,000 sq. feet of gross floor area

911.6 For uses not listed, the publication "Parking Demand ITE, "1987 or most recent edition shall be used.

912 Pedestrian Circulation

912.1 The Planning Board may require pedestrian ways be installed in subdivisions and other proposed developments based upon the size, density, and traffic of the proposed development or subdivision. When required by the Planning Board, the pedestrian ways may be located either in the road right-of-way or outside of the right-of-way. The pedestrian way may consist of a asphalt, concrete, stone, wood chip or other similar surface and shall be designed to meet the circulation demands of the development. Materials selected for the surface shall be suitable for year-round pedestrian access. Sidewalk maintenance is the responsibility of the property owner for the length that goes through or abuts their property.

Chapter 10: Special Activity Performance Standards

1001 Home Occupations:

1001.1 Purpose: Whereas the Town of Eddington recognizes that a home occupation is the preferred way for some persons to work, but also recognizes the rights of property owners to be free of possible nuisances caused by certain home occupations, the following performance standards shall be observed by all home occupations.

1001.2. Performance Standards:

1001.2.1 The home occupation shall be carried on wholly within on in a residence, or a building accessory to said residence, by a member of the family residing in said premise or with the assistance of not more than one additional person other than occupants of the dwelling. A Home Occupation will not occupy more than 33% of the floor area of all structures on the property.

1001.2.2. No exterior storage of material and any other exterior evidence of the home occupation shall be allowed.

1001.2.3. No nuisance such as waste discharge, offensive noise, vibration, smoke, dust, obnoxious odors, heat, glare, fumes, traffic, parking, or radiation shall be generated. Such Home Occupation shall not produce electrical interference detectable beyond the property lines.

1001.2.4. For information on signs for Home Occupations, refer to the Sign Ordinance.

1001.2.5 Retail sales of goods shall not be allowed except for items that have been made onsite or are incidental to the home occupation.

1001.2.6 A minimum number of off-street parking spaces shall be provided as follows: Two off-street spaces per on-premise dwelling unit and two additional off-street parking spaces for the home occupation or as determined by the Planning Board.

1001.2.7 A home office is a use by a resident of a portion of a residence that does not create additional traffic, does not have a sign, and does not change the external character of the building, and has no public presence (i.e. no office open to the public on the premises). A home office does not require a permit.

1002 Cottage Industry:

1002.1 A cottage industry is a use that may include retail, office, service, commercial or industrial, which due to its size is low intensity and produces a minimum of impacts for adjacent properties. The cottage industry is a small commercial operation which is traditionally operated in rural communities and allows households to create income and economic opportunities.

1002.2 Standards:

All cottage industries shall comply with the following:

1002.2.1 Each cottage industry shall be considered a principal use and comply with applicable dimensional requirements. A cottage industry which only uses existing structures on a property is exempt from meeting the road frontage and set-back requirements.

1002.2.2 The total number of employees, including family members residing and working at the cottage industry, shall not exceed 5 employees.

1002.2.3 Cottage industries which grow or exceed these standards shall not be considered as a non-conforming use, and shall be treated as a new use. They shall be required to reapply to the Planning Board with an application for a new use. Any cottage industry not in compliance with these standards shall be considered in violation of this Ordinance.

1002.2.4 The total square footage of all structures and exterior storage areas (based upon ground floor area) used for the cottage industry shall not exceed 2,000 square feet.

1002.2.5 All outside storage of materials and goods shall comply with the outside material storage requirements in Section 707 of the General Standards Section of this Ordinance and the following:

1002.2.5.1 Exterior storage abutting any residential structure shall be completely screened from the view of the abutting residential property.

1002.2.6 The following activities shall not be eligible as a cottage industry: junk yards, oil and fuel storage or handling facilities, restaurants, convenience stores, gasoline and fuel sales, vehicle sales and/or service, and kennels.

1002.2.7 In addition to the noise standards contained in this Ordinance, all cottage industries shall not produce more than 50 decibels between the hours of 7:00 a.m. and 9:30 p.m. and 40 decibels at all other times as measured at the property line.

1002.2.8 A landscaped area consisting of existing or proposed vegetation shall be installed along the lot road frontage. A vegetated area consisting of grass or other similar material shall extend across the frontage for a minimum width of 8 feet. The vegetated area shall include one of the following: a 3 foot high fence, 24 shrubs per 100 feet of frontage with a minimum height at the time of planting of 24 inches and a mature height of at least 36 inches or 10 trees per 100 feet of frontage with a minimum 1½ inch diameter at the time of planting and a mature height of at least 20 feet. If existing vegetation is used to meet this requirement, it shall provide a similar screen.

1003 Commercial Standards:

1003.1 Parking areas shall have a minimum buffer strip 10 feet wide extending along the side and rear property boundaries. The buffer shall be landscaped with vegetation or landscape materials. Parking areas containing more than 100 parking spaces shall increase the buffer width by an additional 10 feet.

1003.2 A screen shall be required whenever a proposed development abuts a residential development or pre-existing residence. The screen shall consist of natural or man-made materials sufficient to form an effective visual barrier to the proposed activity from the neighboring property.

1003.3 The entrance to the commercial activity shall be paved with bituminous pavement extending from the road onto the site for a minimum distance of at least 30 feet for the width of the required opening.

1004 Adult Entertainment:

1004.1 In districts where allowed, the adult business shall not be located within 1,000 feet of an educational, day care facility or place of worship, nor within 1,000 feet of any other adult business.

1004.2 In addition to any sign requirements contained in this Ordinance, signs for an adult business shall not depict the human figure in any unclothed or suggestive manner. No sexually explicit message, materials, or activity shall be visible outside the building.

1005 Signs:

1005.1 All signs shall conform to these standards and shall comply with the MRSA Title 23 section 1901-1925, Maine Traveler Information Service Law.

1005.2 General Standards:

1005.2.1 No sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, obstruct the view of, or be confused, with any authorized traffic sign, signal, or device or otherwise constitute a safety risk or distraction to pedestrian or vehicular traffic.

1005.2.2 No sign shall be located within a town, county, or state right-of-way or other lot line. Exceptions apply to political signs.

1005.2.3 Free standing and building mounted flashing, moving or animated signs are prohibited.

1005.2.4 Free standing and building mounted neon signs are prohibited. Exception is made for signs mounted in a commercial property window indicating "Open" for business during business hours of operation.

1005.2.5 All sign lighting shall be installed so as to direct light away from abutting roads and properties. Illuminated signs must be designed in such a way as to avoid glare.

1005.2.6 Signs relating to trespassing, access and hunting shall be permitted without restriction providing that no sign shall exceed 2 square feet in area.

1005.2.7 Signs relating to public safety shall be permitted without restriction.

1005.3 Discontinued Sign: Any discontinued, unused or damaged signs shall be removed by the property owner upon notice by the Code Enforcement Officer that the sign constitutes a nuisance or is a hazard due to structural condition.

1005.4 Contractor Sign: One sign advertising the contractor's name performing temporary services at the premises is permitted for the duration of the work but not longer than 30 days after completion of the work

1005.5 Home Occupation Sign: One sign a maximum of 2 square feet shall be permitted for a home occupation. The sign may be double sided and mounted on the building or free standing. The sign shall be located on the premises and removed if the home occupation is discontinued.

1005.6 Residential Sign: One name sign a maximum of 2 square feet shall be permitted per residential premise. The sign may be placed on the building or at the intersection of a private road and the right-of way.

1005.7 Political Sign: Signs shall not be placed within 8 feet of a fire hydrant or on private property without the permission of the property owner.

1005.7.1 Signs bearing a political message relating to an election, primary, or referendum shall be permitted and may be placed in the right-of-way provided they are removed by the candidate or political committee not later than one week after the election, primary, or referendum.

1005.8 Temporary Sign: One temporary sign, for a period not to exceed 4 months, either freestanding or attached to a building and no larger than 9 square feet is permitted as part of a use requiring a permit as per this Ordinance.

1005.9 Sign Requirements for Commercial, Industrial, Retail, Institutional Public, Religious, Civic and Government

1005.9.1 No sign shall be located so as to obstruct sight distance of traffic entering or exiting from the premises.

1005.9.2 One free standing sign is permitted per lot. The sign shall not exceed 50 square feet in area and a height of 25 feet.

1005.9.3 Signs may be attached to the building identifying goods sold or services rendered on the premises. No sign mounted on a building shall extend above the roof line more than 6 feet and no sign mounted on the building shall exceed the width of the building.

1005.9.4 On premises traffic or directional signs to control and direct customer access and parking are permitted.

1006 Manufactured Homes:

1006.1 All newly sited manufactured homes shall be installed according to the “Manufactured Housing Installation Standards” developed by the State of Maine Manufactured Housing Board as most recently amended.

1006.2 All newly sited manufactured homes shall comply with the safety standards in the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code Title 42, Chapter 70. (Modular homes shall be constructed in conformance with 10 MRSA Chapter 951) Units constructed prior to the enactment of these standards shall be made to conform to the standard. The owner shall provide a written statement from a professional engineer licensed in the State of Maine indicating that the mobile home has been upgraded and is in compliance with the standard.

1007 Manufactured Home Parks, RV Parks, and Campgrounds:

1007.1 Purpose: These regulations have been drafted to define and regulate Manufactured Home Parks, RV Parks, and Campgrounds; to establish minimum standards governing the site requirements, construction, and maintenance of said uses; to establish minimum standards governing utilities and required facilities; and to establish the duties of owners and operators of said uses and to establish penalties for violations.

1007.2 Existing Use: All lawful existing Manufactured Home Parks, RV Parks, or Campgrounds at the date of adoption of this Ordinance shall be permitted to continue in their existing configuration with regard to size of park spaces, number of spaces authorized, setbacks, road locations and widths.

1007. 3 Expansion of Existing Use: Any expansion shall comply with the requirements of this Ordinance.

1007.4 Application Submission Requirements: Application for initial permits and any subsequent changes shall be in writing on forms approved by the Planning Board and shall include the following materials in addition to those required by this Ordinance.

1007.4.1 The location, number, and size of all park or campground spaces within the tract;

1007.4.2 Location of common utility areas and structures;

1007.4.3 Copies of approved subsurface wastewater disposal systems on forms as provided by the State.

1007.5 First Renewal Permit: The first renewal permit applied for shall have attached a plan drawn to scale of the entire parcel, the location of each space on the parcel, any structures or buildings and their use, and the setbacks from parcel property lines of all said spaces and buildings from all lot lines, and normal high water marks. Fees for renewal permits shall apply.

1007.6 Annual Renewal Permits: Permits must be renewed annually. Applications for renewal shall be made no later than July 1st of each year to the Code Enforcement Officer. A renewal permit shall be issued contingent with compliance with all regulations in this Ordinance. The applicant shall provide a written statement that no changes have been made to the most recently reviewed permit application, or apply to the Planning Board for review of any changes proposed before a renewal permit is due or issued.

1007.7 Inspection: The Code Enforcement Officer is authorized and directed to make periodic, annual, minimum inspections of all Parks and Campgrounds in order to determine compliance with this Ordinance and the safekeeping of health, safety, and welfare to the occupants of said parks and campgrounds. The CEO shall have the right to enter, at reasonable hours, any private or public property relating to uses governed by this Ordinance in the pursuit of his/her responsibilities herein.

1007.8 Specific Regulations for Campgrounds (RV's and Tents): Campgrounds shall conform to the minimum requirements imposed under State Licensing Procedures, Town ordinances, including Shoreland Zoning, and the following:

1007.8.1 Recreational Vehicle and tenting areas shall contain an approved sewage facility.

1007.8.2 Each RV, tent, or shelter site shall contain a minimum of 2,000 square feet of suitable land, not including roads and driveways, for each site, except it shall be 5,000 square feet when within the Shoreland Zone.

1007.8.3 Each RV, tent, or shelter site shall be provided with a picnic table, trash receptacle, and fireplace and/or barbecue facility.

1007.8.4 The area intended for placement of the RV, tent, or shelter and utility and service buildings, shall be set back a minimum of 100 feet from the exterior lot lines of the camping area.

1007.8.5 All campgrounds shall be screened from adjacent land areas by a continuous landscaped area containing evergreen shrubs, trees, fences, walls, or any combination which forms an effective visual barrier of not less than 6 feet in height.

1008 Open Space Standards:

1008.1 Purpose: The purpose of these provisions is to allow for new concepts of development where variations of design may be allowed, if the net residential density shall be no greater than is permitted in the area in which the development is proposed. Notwithstanding other provisions of this Ordinance relating to dimensional requirements, the Planning Board, in reviewing and approving proposed residential developments may modify said provisions related to dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the following standards:

1008.2 Design Requirements:

1008.2.1 The open space design development shall meet all the requirements for a subdivision and other applicable provisions of this Ordinance.

1008.2.2 Each proposed building site and building shall be an element of an overall plan for the site development. Only developments having a total site plan for structures shall be considered. The developer shall illustrate the placement of buildings and the treatment of spaces, roads, services, and parking and in so doing, shall take into consideration all requirements of this section and of other applicable sections of this Ordinance.

1008.2.3 The minimum land area necessary for an Open Space Design shall be at least two times the minimum lot size of the district where development is proposed multiplied by the number of proposed lots.

1008.2.4 Any reduction in lot size, density, setbacks or standards which are part of meeting the design criteria of this Ordinance shall be approved by the Planning Board and will not require a variance.

1008.2.5 The area suitable for development shall be calculated by subtracting the following; wetlands, rivers, streams, brooks, stormwater drainage features, resource protection district areas, areas within the 100-year floodplain and areas within roads and other rights-of-way.

1008.2.6 To determine the maximum number of dwelling units or structures permitted on a tract of land, the land suitable for development shall be divided by the minimum lot size required in the district in which it is located.

1008.2.7 Lots served by a public sewer system and lots served by an individual or cluster subsurface wastewater system may be reduced to 20,000 square feet.

1008.2.8 The total area of common land within the development shall equal or exceed the sum of the areas by which any building lots are reduced below minimum lot size requirements.

1008.2.9 Every building lot reduced in size below the amount required shall be within 1,000-feet of common land.

1008.2.10 No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of the development.

1008.2.11 Shore frontage shall not be reduced below the minimum required in the applicable Shoreland Zoning District.

1008.2.12 Where the development abuts a body of water, a usable portion of the shoreline, and reasonable access to it, shall be part of the common land.

1008.2.13 Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for the site development.

1008.2.14 The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. A restriction prohibiting any structures or building on the reserve area for a replacement system shall be included on the subdivision plan.

1008.3 Requirements for Open Space Areas:

1008.3.1 The areas selected for open space shall be based upon the requirements of this subsection and the overall design plan for the development. Open space areas shall be selected based upon the following priorities:

- Existing recreational areas or trails.
- Scenic areas as identified by the Town and the Comprehensive Plan.
- Existing agricultural fields, pastures, or orchards.
- Significant wildlife and plant habitat areas.
- Archeological or historic sites.
- Existing undeveloped forest areas.

1008.3.2 All open space areas shall be designed as continuous tracts of land. Narrow strips of land or collections of small tracts are not permitted unless designed as part of a trail system connecting larger parcels.

1008.3.3 The open space land may utilize or feature areas designated as unsuitable for development, however, in no case shall land unsuitable for development be counted as the required open space area.

1008.4 Dedication and Maintenance of Common Open Spaces and Facilities:

1008.4.1 Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for noncommercial recreation, agriculture or conservation. However, easements for public utilities or utility structures may be permitted.

1008.4.2 The common open space shall be shown on the development plan with the notation on the face thereof to indicate

- The common open space shall not be used for future building lots.
- Any part or all of the common open space proposed to be dedicated for acceptance by the Town.

1008.4.3 If any or all of the common open space is to be reserved for use by the residents, the by-laws of the homeowners association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to approval.

1008.4.4 Covenants for mandatory membership in the association, setting forth the owners rights and interest and privileges in the association, common facilities and the common land, shall be reviewed by the Planning Board and included in the deed for each lot.

1008.4.5 The association may levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.

1008.5 Density Bonus:

1008.5.1 The number of dwelling units may be increased by 20% over the number of units allowed in the district in which the development is located provided that at least one of the following conditions is met:

- At least 10% of the dwelling units are affordable housing as defined by Title 30-A, MRSA, subsection 4301.
- Common shoreland with access to the water is available for the use of the general public.
- Common land which includes at least one of the following: parks, trails, recreation facilities or ponds in excess of 5 acres, is available for use by the general public.

1008.5.2 The Planning Board shall incorporate the applicant's proposal for the density bonus as a condition of the subdivision plan. The proposal shall be reviewed by the Planning Board and revisions incorporated into the proposal based upon the Board's review. The town may set conditions on the density bonus proposal to ensure that the intent of this Ordinance is followed.

1009 Junk Yards, Auto Graveyards & Auto Recycling:

1009.1 Planning Board review shall be required for any new or the expansion of a legally existing junkyard, auto graveyard or recycling. All new and existing operations shall also obtain an annual permit from the Board of Selectmen.

1009.2 Any new or expanded junkyard, auto graveyard or recycling facility shall conform to all applicable State laws and regulations, the applicable provisions of this Ordinance and the following standards ;

1009.2.1 The junkyard, auto graveyard, or recycling facility shall have a minimum lot area of 10 acres.

1009.2.2 The junkyard and any other outside storage or similar area shall be setback a minimum of 100 feet from all property lines.

1010 Low Intensity Re-use of Agriculture Structures:

1010.1 The purpose of this section is to allow some low intensity uses to take place within existing unused agricultural structures such as barns, dairy barns, chicken barns and similar structures. Whenever a proposal to re-use an agricultural structure cannot conform to the

standards of this section, it shall conform to another allowed use for the district in which it is located as specified in the district use chart.

1010.2 The following standards shall apply to all low intensity re-use of existing agriculture structures:

1010.2.1 All activity shall take place within the structure and no outside storage is allowed.

1010.2.2 The activity shall not generate more than 20 vehicle trips per day.

1010.2.3 No more than 2 employees are allowed

1010.3 In addition to the Noise standards contained in this ordinance, activity shall not produce any noise more than 50 decibels between the hours of 7:00 am and 9:30 p.m. and 40 decibels at other times as measured at the property line.

Chapter 11: Definitions

1102. Definitions:

Words and terms not defined shall have their customary dictionary meanings.

The following words and terms, for the purpose of this ordinance, shall be defined as follows:

Abutters: All property within 500 feet of subject property lines, including property owners across roadways and bodies of water.

Accessory or Adjunct: Commonly associated with or in support of the primary or principal use of a lot or structure.

Active Extraction Area: The extraction area including side slopes and adjoining areas with overburden removed, excluding roads, structures, stockpiles, etc. not part of the active mineral extraction operation.

Active Recreation: Recreational activity which necessitates some degree of structural or mechanical components for participation in the activity, such as ball fields, playgrounds and tennis courts.

Adult Entertainment: A sexually oriented business including adult amusement stores, adult movie theaters, adult entertainment cabarets, or adult spas or any business where erotic materials and activities are displayed, depicted, described, or simulated as a regular and substantial part of its operation.

Adult Spa: An establishment or place primarily in the business of providing services of an erotic nature.

Adult Entertainment Cabaret: A public or private establishment used regularly or occasionally, which features entertainers or employees who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interests of the patron.

Adult Movie Theater: An establishment used regularly or occasionally for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on erotic material for observation by patrons.

Adult Amusement Store: An establishment having a substantial or significant portion of its sales or stock in trade, erotic material or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, the exclusion of minors from the establishment's premises, or any other factors showing that the establishment purpose is to purvey such material.

Affected Land: All reclaimed and unreclaimed land, land that has or will have the overburden removed, land on which stumps, spoil, or other solid waste has or will be deposited and storage areas, all roadways or other and, except natural buffer strips, that will be or has been used in connection with an MEO.

Aggrieved Party: A person who demonstrates standing to appeal from a decision rendered under this Ordinance.

Agricultural Land: Land in excess of one acre, which has been tilled, harvested, mown (except lawns and similar which are customarily incidental to residential use), and/or used for the production of field crops, including commercial orchards, pasture, and pick-your-own crops, which use has been within 5 years of the date of application for development under these provisions.

Agricultural Processing Facility: A building or structure in excess of 1000 square feet designed to take plants, livestock or fish and process these raw materials into a food product for human or animal consumption

Agriculture – Non-livestock: Shall mean the cultivation of soil, producing or raising crops, including gardening as a commercial operation. The term shall also include greenhouses, nurseries and versions thereof, where flowers, plants, shrubs, and/or trees are grown for sale.

Agriculture – Livestock: See animal husbandry.

Airblast means an atmospheric compression wave resulting from the detonation of explosives, whether resulting from the motion of blasted materials or the expansion of gasses from the explosion.

Ambient Sound: includes all sound present in a given environment. It includes intermittent sounds, such as aircraft, barking dogs, wind gusts, mobile farm or construction machinery, and vehicles traveling along a nearby road. It also includes insect and other nearby sounds from birds, animals or people.

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

Animal Unit: 1,000 pounds. A minimum of one acre/animal unit is required, excluding land occupied by structures not specifically used for housing such animals, and excluding unvegetated land.

Aquifer: An underground bed or stratum of earth, gravel or porous stone that contains water.

Assembly/Meeting Space: A building or facility used to provide rented space for educational, business, social events or meetings. Food preparation may be included but it is limited to serving only events at the facility.

Auction Facility: A building or facility in which periodic or regular public sales of property to the highest bidder are held.

Authorized Agent: An individual or a firm having written authorization to act in behalf of a property owners, signed by the property owner and notarized.

Automobile Graveyard and Junkyard: a yard, field or other area used to store 3 or more unserviceable, discarded, worn-out or junked motor vehicles.

- A. “**Automobile graveyard**” does not include any areas used for temporary storage by an establishment or place of business that is primarily engaged in doing auto body repair work to make repairs to render a motor vehicle serviceable.
- B. “**Automobile graveyard**” includes an area used for automobile dismantling, salvage and recycling operations. (Revised March 18, 2002)

Automobile recycling business: means the business premises of a person who purchases or acquires salvage vehicles for the purpose of reselling the vehicles or component parts of the vehicles or rebuilding or repairing salvage vehicles for the purpose of resale or for selling the basic materials in the salvage vehicles, provided that 80% of the business premises specified in the site plan is used for automobile recycling operations. (March 18, 2002)

Average Daily Traffic (ADT): The sum of average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

Bed and Breakfast: A dwelling with a minimum of two and a maximum of 6 guest rooms are offered for rent and with only a breakfast meal served only to persons renting rooms.

Bedrock: The solid rock that underlies loose material, such as soil, sand, clay, or gravel

Blaster: A person qualified to be in charge of or responsible for the loading and firing of a blast.

Blasting: The use of explosives to break up or otherwise aid in the extraction or removal of a rock or other consolidated natural formation.

Blast Site: The area where explosive material is handled during the loading of drilled blastholes, including the perimeter formed by the loaded blast holes and 50 feet in all directions from loaded blast holes.

Boarding, Rooming or Lodging House: A use adjunct to the primary use of a building as a single family residence in which transient guests are furnished sleeping accommodation for a fee in residence bedrooms. Guest may be furnished meals, which are prepared in the residence kitchen facility only.

Boat Landing: A facility, either paved or gravel, which provides public access to a body of water.

Body of Water: Shall include the following:

- A. Pond or Lake - any inland impoundment, natural or man-made, which collects and stores surface water.

B. Stream or River - a free flowing drainage outlet, with a defined channel lacking terrestrial vegetation, and flowing water for more than three months during the year.

Borrow Pit: Mining operation undertaken primarily to extract and remove sand, fill, or gravel. Does not include any mining operation undertaken primarily to extract or remove rock or clay.

Camping: The occasional use of land on a temporary and intermittent basis for cooking and sleeping and using temporary shelter customarily associated with such activity. Included is the occupancy of a recreational vehicle parked on any lot.

Campground: Land upon which one or more tents are erected or trailers or RV's are parked for temporary recreational use on sites arranged specifically for that purpose. The word "camp grounds" shall include, but not be limited to, the words "tenting grounds" and "trailer parks", or "RV parks".

Cluster Development: See Open Space Development.

Code Enforcement Officer: A person appointed by the Town Manager to enforce the Ordinance(s) of the Town. Also referred to as CEO.

Commercial: An activity, other than a Home Occupation, Home Office, or Cottage Industry as elsewhere defined. The intent and/or result of which activity is the production of income from buying and selling of goods and/or services. Rental of residential building and/or dwelling units is excluded.

Common Scheme of Development: The process whereby contiguous parcels with existing or proposed mineral extraction operations where the applicant or property owner has at least a 30% share in ownership or where mineral extraction operations owned by a relative (as commonly defined) are reviewed as a single license application.

Community Living: As defined by M.R.S.A.30-A 4357-A

Community Nonprofit: A building or buildings that contain public or private non-profit facilities to provide educational, recreational, or informational services to the general public.

Complete Application: An application form, including the required fee, and all information required by this Ordinance, determined to be complete by the Code Enforcement Officer or Planning Board.

Conforming Use: A use of buildings, structures or land, which complies with all applicable provisions of all Ordinance(s) of the Town of Eddington.

Congregate Care: Residential housing consisting of private apartments and central dining facilities and within which a supportive services program is available to meet the needs of residents.

Corner Lot: A lot that abuts two or more public or private ways. Frontage shall be defined as total aggregate frontage on all public or private ways.

Cottage Industry: A commercial use of low intensity that is subject to specific standards contained in this Ordinance.

Crematory: A building or portion thereof designed for the cremation of a corpse and located in a cemetery having a minimum land area of 20 acres.

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

Deck: Any platform adjacent to, or attached to the exterior of a structure, including steps or ramps necessary to provide access.

De novo hearing: Authorizes the Board of Appeals to reverse a decision by the Code Enforcement Officer or Planning Board only if it finds that the decision is contrary to specific provisions of the ordinance or unsupported by substantial evidence in the record.

Detonating Cord: A flexible cord containing a center core of high explosives that may be used to initiate other explosives.

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

Direct Watershed of a Pond: That portion of the watershed, which drains directly to the pond without first passing through an upstream pond or river.

Disposal: The discharge, deposit, injection, dumping, spilling, leaking or placing of any solid or liquid waste into or onto any land or water so that the waste or any constituent thereof may enter into the environment or be emitted into the air, or discharged into any waters, including round waters.

Driveway: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, serving not more than two residences.

Dwelling Unit: A building, or portion thereof, used for living quarters for one family.

Dwelling, Single-family: Shall mean any structure containing only one dwelling unit and shall include a community living use as defined in M.R.S.A.

Dwelling, Two-family: Shall mean a building containing only two dwelling units, for habitation by not more than two families.

Dwelling, Multi-family: Shall mean a building containing 3 or more dwelling units..

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

Earth Moving: Any removal of earth from its original location and not defined as resource extraction/mining.

Easement: A right of use over the property of another.

Environmentally Sensitive Areas: Wetlands, swamps, wild life habitat areas delineated by the Dept. of Inland Fisheries and Wildlife (IF&W), prime agricultural areas as delineated by US Dept of Agriculture, areas with steep slopes as shown on the Shoreland Zoning map, areas with poorly drained soils as identified in the USDA NRCS soil survey, and flood plain areas (subject to a 100 year flood) as shown on the FEMA FIRM maps. Also to include Protected Natural Resources.

Essential Services: Gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Existing Right-of-Way: Land, which is dedicated for the sole purpose of providing access to a parcel or parcels of land abutting, and described on a deed recorded prior to the effective date of this Ordinance.

Expansion of Existing Operation: Excavation operations, including active extraction areas and affected lands that exceed the footprint of an approved operation.

Explosive: Any chemical compound or other chemical substance that contains oxidizing or combustible materials or other materials or technologies used for the purpose of producing an explosion intended to break or move rock, earth, or other materials.

Family: One or more persons occupying a premise and living as a single housekeeping unit.

Flyrock: Rock that is propelled through the air or across the ground as a result of blasting and that leaves the blast area.

Frontage, Road: The horizontal distance between the intersections of the side lot lines with the right-of-way line of any road, public or private.

Government Offices and Structures: Any building or land held, used, or controlled exclusively for public purposes by any department or branch of government, federal, state, county or local

Grandfather Clause: See non-conforming lots of record and non-conforming Structures..

Gravel Pit: See Borrow Pit

Great Pond: See the Shoreland Zoning Ordinance

Ground water: All the waters found beneath the surface of the earth which are contained within or under this State or any portion thereof, except such waters as are confined and retained completely upon the property of one person and do not drain into or interconnect with any other waters of the State.

Hazardous Waste: As currently defined by the Maine Department of Environmental Protection.

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

Highwall: The unexcavated face of exposed overburden and material on an open face or bank.

Indoor Commercial Recreation/Amusement: A building or structure designed and equipped for the conduct of sports, leisure time activities. Performances and other customary recreation activities which take place indoors. Activities include but are not limited to amusement centers, arcades, gyms, health clubs and bowling alleys. Restaurants which are incidental to the primary use of the structure or building are allowed. This does not include Adult Entertainment as defined elsewhere.

Junkyard: Junkyard, a yard, field or other area used to store:

- A. Discarded, worn-out or junked plumbing, heating supplies, household appliances and furniture;
- B. Discarded, scrap and junked lumber;
- C. Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material; and
- D. Garage dumps, waste dumps and sanitary fills. (Revised March 18, 2002)

Kennel, Commercial: A place, building or structure where three or more dogs, cats or other similar household pets are kept for breeding, training, exhibition, grooming or temporary housing for a fee.

Kiosk: A small detached building not more than 144 square feet in area used to sell goods or services including food.

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

Lot Lines: The lines which define a lot.

Lot Line, Front: The line separating the lot from the road On a corner lot the line separating the lot from either road.

Lot Line, Rear: The line opposite the front line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than 10 feet along. Lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite the front line with the least dimension.

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

Lot of Record: A parcel of land, the dimensions of which is defined on a document or map on file with the County Registry of Deeds.

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

- 1) Those units constructed after June 15, 1976, commonly called "newer mobile home," that the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, that in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and that are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning or electrical systems contained in the unit. This term also includes any structure that meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et. seq.,
- 2) Those units commonly called "modular homes," that the manufacturer certifies are constructed in compliance with Title 10, Chapter 951, and rules adopted under that chapter, meaning structures, transportable in one or more sections, that are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air conditioning or electrical system contained in the unit.

Manufactured Home Park: A parcel of land, under single ownership, approved by the municipality for the placement of three (3) or more manufactured houses.

Mineral Extraction Operation (MEO): Any excavation or removal, handling or storage of sand, gravel, borrow, rock, clay, minerals, or topsoil including but not limited to sand or

gravel pits, clay pits, borrow pits, quarries, mines, and topsoil mining or other like material from its natural location and that transports the product removed away from the extraction site. The incidental removal of material necessary for construction is not included. .

Mineral Extraction Site or Area: All of the land area disturbed or otherwise developed for the extraction, handling, removal, processing, or storage of sand, gravel, clay, minerals, stone, rock, or topsoil; including any access roads and cleared areas adjacent to a pit or excavated area.

Native: Indigenous to the local forests

Natural Buffer Strip: An undisturbed area or belt of land that is predominantly covered with trees or other vegetation.

Non-Conforming Lots of Record: A single lot of record which, at the effective date of adoption, or amendments to, this Ordinance, does not meet the area, frontage, width or depth requirements of the District in which it is located.

Non-Conforming Structure: A structure that does not meet one or more of the following dimensional requirements: setbacks, height, and lot coverage. It is allowed solely because it was in lawful existence, at the time this Ordinance or subsequent amendments took effect.

Non-Hazardous Solid Waste: Solid waste, which does not present a potential or present danger to people, animals or the natural environment.

Non-Hazardous Solid Waste Facility: Any land, buildings, structures or combination thereof used for disposal of non-hazardous solid waste, excluding all municipally operated facilities for disposal of nonhazardous used building materials and discarded vegetation resulting from normal residential maintenance activities.

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

Normal Repair or Maintenance: The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. Normal repairs are nonstructural repairs and do not include additions or alterations.

Official Business Direction Signs: A sign erected and maintained in accordance with the Maine Traveler Information Services Act, 23 M.R.S.A. Section 1901 et.seq. which points the way to public and/or private accommodations and facilities.

Open Space: Undeveloped land, including but not limited to, woodland, fields and agricultural land.

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

Open Space Development: A development in which dimensional requirements may be reduced in order to promote the retention of open space.

Passive Recreation: Outdoor recreational activities which involve no structural or mechanical components or facilities, or earth moving, such as hiking, fishing, hunting, etc

Peak Particle Velocity: The maximum rate of ground movement measured by any of the 3 mutually perpendicular components of ground motion.

Period of Operation: The opening and closing times of certain businesses or activities regulated as a Special Exception under this Ordinance. This term may apply to hours of the day or night, and/or days of the week, and/or months of the year.

Person: As used in this Ordinance, persons, partnerships, firms, corporations, owners, lessees or licensees or their agents.

Place of Worship: A building or structure, or group of buildings and structures designed and used for the conduct of religious services.

Planned Residential Development: A project comprehensively planned as an entity via a unitary site plan, which is permitted as per the Open Space standards contained in this Ordinance.

Preblast Survey: Documentation, prior to the initiation of blasting, of the condition of buildings, structures, wells or other infrastructures; protected natural resources; historic sites; and unusual natural areas.

Private drinking water supply: A surface water supply, a dug well, a spring or a hole drilled, driven or bored into the earth that is used to extract drinking water for human consumption and that is not part of a public drinking water supply.

Processing: Any screening and/or mixing of sand, gravel, stone, rock, clay, or topsoil.

Production blasting: Blasting conducted for the purpose of extracting or removing natural materials for commercial sale or beneficiation.

Protected Locations: "Occupied Building or Structure" means a building that is a residence, school, hospital, house of worship, public library, hotel, motel, B&B, nursing home, seasonal residence, daycare centers, elder care facilities, places of seated assemblage, nonagricultural businesses or other building that is occupied or in use as a primary residence or is customarily frequented by the public or has been legally permitted for construction at the time when the permit application is submitted.

Protected Natural Resource: a river, stream, brook, great pond, coastal wetland or freshwater wetland as defined in Title 38 M.R.S.A., Section 480-B, significant wild life habitat as defined herein, fragile mountain areas, bogs, or marshes, as the terms are defined in applicable state law.

Public Accommodation/Hotel/Motel: A building or group of buildings intended to accommodate for a fee, travelers and other transient guests, who are staying for a limited duration, with sleeping rooms (with or without cooking facilities) which may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Public drinking water source: A groundwater well or a surface water source that directly or indirectly serves a water distribution system that has at least 15 service connections or regularly services an average or at least 25 individuals daily at least 60 days of the year.

Public Facility: Owned by the state, county or municipality or quasi-municipal entity as defined under Maine Law.

Public Park: An area designed specifically for recreational use by the public and involving minimal structural development, as determined by the Planning Board.

Public Safety Officer: an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, or as a member of a rescue squad or ambulance crew.

Quarry: A place where rock or large stone is separated from the bedrock

Quarry Face: see Highwall

Reclamation: The rehabilitation of the area of land affected by mining, including, but not limited to, the stabilization of slopes and creation of safety benches, the planting of forests, the seeding of grasses and legumes for grazing purposes, the planting of crops for harvest, the enhancement of wildlife and aquatic habitat and aquatic resources and the development of the site for permitted residential, commercial, recreational or industrial use. "Reclamation" does not include the filling in of pits and the filling or sealing of shafts and underground workings with solid materials unless necessary for the protection of groundwater or for reasons of safety.

Reclamation Plan: A plan, as defined in 2008.2.14 which depicts how the project will be restored, or maintained, after excavation is complete. Such a plan usually includes final grading and revegetation plans, of any given phase.

Recreational Vehicle (RV): A vehicle, or vehicular attachment, designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include, but is not limited to, a pick-up truck camper, travel trailer, tent trailer, camp trailer, or motor home.

Resource Extraction/Mining: Any operation within any 12-month period where the principal use is the removal of more than 100 cubic yards of soil, topsoil loam, sand, clay, rock, peat or

other like material from its natural location and that transports the product removed away from the extraction site. The incidental removal of material necessary for construction is not included.

Retail and/or Wholesale Business Establishment: A commercial activity engaged in for primarily selling tangible goods, which includes, but is not limited to, grocery stores, gift shops, restaurants, take-out foods, clothing stores, antique shops, pet shops, kennels, or similar.

Right of Way: The term used to describe a deeded right belonging to a party to pass over the land of another. As used with reference to right to pass over another's land it is only an easement.

Road: A highway; an open way or public passage; a strip of land appropriated and used for purposes of travel and communication between different places. A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined

Road, Interior Access: A road constructed on the interior of a lot which provides access to an RV, Mobile Home or Campground space, or service within the Park or Campground.

Rock: A hard, nonmetallic material that requires cutting, blasting or similar methods of forced extraction.

RV Park or Campground: Land upon which one or more tents are erected or RV's are parked for temporary recreational use on sites arranged specifically for that purpose. The words "camp grounds" shall include, but are not limited to, tenting grounds" and "trailer parks".

Screening: (1) A method of visually shielding or buffering one abutting or nearby structure or use from another by fencing, berms, walls, or densely planted vegetation.
(2) Removal of relatively coarse floating and/or suspended solids by straining through racks or screens.

Seasonal High-Water Table: That part of the year when the water table is at its highest level.

Seasonal Residence: A protected location which is occupied for less than six months of the year.

Self Storage: A building or group of buildings that contain individual compartmentalized and controlled separate storage spaces leased or rented on an individual basis and accessible through individual doors. The space is intended only for storage and not for occupancy.

Senior Housing Development: A housing development designed for persons over the age of 50 years without residential care or similar services.

Service Business/Establishment: A commercial activity primarily providing services, as opposed to one primarily providing or selling tangible goods, which selling of goods, is defined as a "retail business". By way of example, professional, real estate sales, securities dealers, insurance agencies, auto repair, body shops, appliance repair, small engine repair, furniture refinishing or repair, welding service for fabricating products for sale.

Setback: The minimum horizontal distance from a lot line to the nearest part of a structure, or from a lot line to the perimeter of a parking space or storage area, or from a lot line to the perimeter of a prescribed land area, the setback for which area or parking space is defined in this Ordinance. The horizontal distance from a lot line or referred location to the nearest part of a structure or activity.

Setback from Water: The horizontal distance from the normal high water mark to the nearest part of a structure or activity.

Sheet flow: shallow-depth, slow-velocity flow of water over the landscape

Sign: A name, identification, description, display or illustration which is affixed to, painted or represented, directly or indirectly on a building, parcel or lot and which relates to an object, product, place, activity, person, institution, organization or business on the premises. A sign, which requires location in the ground or attachment on the ground, is a structure. A temporary sign is one that is movable or readily removable by non-mechanical means.

Significant Wildlife Habitat: all areas listed under 2008.2.1.1 a) through g).

Small Scale Animal Keeping: The keeping of animals exclusively for the personal use of the property owner and not for breeding, or any other commercial use.

Social and Fraternal Organizations: Any association of persons organized for social, religious, benevolent, or academic purposes; whose facilities are open to members and guests, which includes, but is not limited to, fraternities, sororities, churches and social organizations.

Stemming: Inert material used in a blasthole to confine the gaseous products of detonation.

Stockpile(s): Area(s) where either man-made or natural materials are being piled up temporarily, either undercover or exposed to the elements, for future processing. These piles are only for materials that are necessary for quarrying activities and associated uses which have been approved by the Planning Board.

Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation or by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

Street: See Road.

Structure: Anything constructed or erected, including manufactured housing and including, but not limited to, mobile homes, box trailers, signs which requires location in the ground or attachment to something on the ground. The following are not considered as structures: fences, boundary wall, unattached buildings 100 square feet or less in area and subsurface waste water disposal systems.

Subdivision: A defined in Title 30-A MRSA Section 4401.

Surface Water: Any water flowing on the surface, either channelized or by sheet flow including, but not limited to, rivers, streams, brooks, ponds, lakes and any swamp, marsh, bog or other contiguous lowland where water is periodically ponded on the surface.

Underground production blasting: A blasting operation carried out beneath the surface of the ground by means of shafts, declines, adits or other openings leading to the natural material being mined or extracted.

Variance: A variance is an allowed deviation from the terms of this ordinance and is limited to lot area, frontage and setback requirements. No variance shall be granted for the establishment of any use otherwise prohibited, nor shall a variance be granted because of the presence of non-conformities in the immediate or adjacent areas.

Vehicle Sales, Service or Repair: Any business which involves automobiles, trucks, farm equipment, motorcycles, campers, recreational vehicles, motor homes, boats, and mobile homes.

Veterinary Clinic: A building used for the diagnosis, care and treatment of ailing or injured animals which may include overnight accommodations.

Warehousing: The receiving, storage, housing, or stockpiling of goods, and/or finished merchandise either inside or outside of a structure prior to their redistribution.

Water Extraction: Commercial removal of ground water.

Water Table: The upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

Wetland: An area that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support and under normal conditions does support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include swamps, marshes, bogs, vernal pools, forested wetlands and similar areas. The parameters that characterize wetlands area;

- The vegetation is predominantly wetland or aquatic;
- The soils are predominantly un-drained Hydric or wetland soils; and
- The substrate is non-soil such as sand, gravel or rock and the area is saturated with water or covered with water at least 2 months during each year.

Chapters 12-19 Reserved For Future Use

Chapter 20: Mineral Extraction Operation Addendum

2000 Effective Date

This addendum and its provisions are effective retroactive to February 22, 2014 and apply to all matters, proceedings, applications and actions pending as of, or occurring subsequent to that date, except to the extent restricted or prohibited by the provisions of 30-A M.R.S.A. §3007(6), in which case, as to those matters only, they shall apply to the maximum extent not restricted or prohibited by the provisions of §3007(6).

2001 Exemptions

This Addendum shall not apply to the following:

2001.1 Mineral exploration whose sole purpose is the determination of the nature and/or extent of mineral resources, accompanied by hand-sampling, test boring, or other methods which create mineral disturbance. Test holes shall be filled in immediately after use;

2001.2 Mineral extraction operations that affect less than five thousand (5,000) square feet of surface area, or the removal or handling of less than three hundred (300) cubic yards of material in less than twelve (12) months;

2001.3 Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area;

2001.4 Removal or filling of material incidental to construction, alteration or repair of a structure, or in the landscaping incidental thereto, pursuant to work legally permitted and authorized by the proper authorities;

2001.5 Construction of farm and fire ponds; and water management berms; and

2001.6 Any active existing mineral extraction operation that has been in operation in the twelve months prior to adoption of this Addendum, except the operation must register in accordance with 2002.1 below.

2002 Application

2002.1 Existing Operations

Within one hundred and eighty (180) days of the approval of this Addendum, all MEOs existing as of that date, shall register with the Planning Board, and submit the following:

2002.1.1 Registration fee.

2002.1.2 Names and addresses of the current owner of the MEO and the operator, and a copy of the deed or lease, if the operator is not the property owner.

2002.1.3 Evidence that the MEO qualifies as an existing operation, boundaries of the tract of land showing lot lines, total acreage of entire parcel, existing excavation areas, depth

and height of existing excavation, structures on property, area used for storage of topsoil and other overburden, location of hazardous material storage areas, location of existing public and private streets, roadways, rights of way, and access roads, the amount of earth material annually extracted, whether processing of materials is done on the site, the nature and amount of that processing, the average daily number of trucks taking material in or out of the site, and the number of employees.

Any operation not registered, or which fails to qualify to be registered, pursuant to this section, shall be considered closed, and may not, after such 180 day period, continue or resume operation.

2002.2 New Operations and Expansion of Existing Operations

2002.2.1 Requirements

No new MEO or a pre-existing operation which failed to meet registration requirements of 2002.1, may commence operation, without first obtaining from the Planning Board approval of a new MEO permit. No MEO existing at the time of passage of this Addendum may expand without first obtaining approval from the Planning Board for an Expansion of an Existing Mineral Extraction Operation. Once an existing mineral extraction operation has reached a cumulative affected area of five (5) acres, no expansion is allowed until a new permit application has been approved by the Planning Board, and reclamation protocols from 2008.2.14 have been met.

2002.2.2 The applicant shall submit the following to the Planning Board:

2002.2.2.1 Application fee.

2002.2.2.2 Names and addresses of current owners of the property and the current operator. A copy of the deeds or lease agreements, if the operator is not the owner, with copies of all covenants, deed restrictions, easements, rights of way, or other encumbrances, including, but not limited to liens and mortgages currently affecting the property.

2002.2.2.3 A site plan, prepared by a Maine licensed Professional Engineer, showing the following:

- a) Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic).
- b) Boundaries of land showing lot lines, total acreage, existing and proposed excavation areas, existing and proposed structures both temporary and permanent on the property, anticipated depth and height of final excavation, areas to be used for storage of topsoil and other overburden for reclamation, limits of area(s) to be used for stockpile(s), location of proposed hazardous material storage areas, location of public and private streets, parking areas, roadways and rights of way, location of proposed access roads, estimated time schedule of future excavation, reclamation and

closure, exposed ground water on site, and depth of ground water at representative points throughout site as determined by test borings and other geotechnical methods.

- c) Present uses of the entire property, including existing excavated area, and present uses of adjacent properties.
- d) Contours of the parcel at five (5) foot intervals for all areas proposed for development.

2002.2.2.4 A plan showing how security at the site will be controlled.

2002.2.2.5 Location of residences and wells within 1,500 feet of property boundaries for borrow, clay, and silt MEOs. The distance is increased to 2,640 feet for rock quarry MEOs.

2002.2.2.6 Operations statement, including the approximate date of commencement of excavation, duration of operation, proposed phasing of operation, proposed hours and days of operation, estimated volume of the excavation, method of extracting and processing (if applicable), disposition of topsoil or overburden, equipment proposed to be used in operation, and operational practices to be used to prevent surface or groundwater pollution, and minimize noise, dust, air contaminants and vibration.

2002.2.2.7 Blasting plan, if any.

2002.2.2.8 A plan showing, in addition to location of hazardous materials, provisions for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground and surface water.

2002.2.2.9 A Preservation of Natural & Historic Features map.

2002.2.2.10 Maps and narrative description of the impact on significant wildlife habitat as outlined in 2008.2.1 below, including any proposed mitigation plan. Letters from the appropriate authoritative agencies shall be required as proof of compliance with performance standards for significant wildlife habitat.

2002.2.2.11 A Spill Prevention, Control & Countermeasure Plan (SPCC).

2002.2.2.12 Plan for screening the operation from abutters and public roads.

2002.2.2.13 An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, current edition.

2002.2.2.14 Reclamation Plan: In the same scale as the site plan, prepared by a licensed professional engineer or licensed landscape architect, requiring, at a minimum, the following:

- a) Final contours of site after reclamation at two (2) feet or less contour intervals.
- b) Areas which will be back-filled and restored with topsoil and other overburden, and depth of same.
- c) Areas which will contain water with measures to be taken to avoid stagnation and erosion.
- d) Phasing program of reclamation and timing.
- e) Landscape plan, indicating location and type of proposed landscape features including plant list.
- f) Location of driveways, roads, fences, and gates to be part of restoration program.
- g) Description of proposed final care of site.

Reclamation plan must comply with 2008.2.14 of this Addendum.

2002.2.2.15 Identification of all required state and/or federal permits, including, if applicable, a Department of Environmental Protection permit as well as copies of all submissions made to any federal or state agency concerning the operation.

2002.2.2.16 A proposed performance guarantee in accordance with Section 710 of this Zoning Ordinance and as deemed satisfactory by the Town Select Board, covering the cost of the reclamation plan or next phase when reclamation plan is divided into distinct sections. This guarantee shall be in place upon approval of the application and prior to granting of operation permit.

2002.2.2.17 A list of all abutting property owners.

2002.2.2.18 For new or expanding MEOs which will create a mineral extraction operation with a cumulative affected area of over five (5) acres, the following additional submissions are required:

- a) A hydrogeological evaluation, prepared by a qualified professional, which shows the depth of ground water throughout the site and establishes that the MEO will not cause any pollution to ground water and/or surface water, or negatively impact existing wells.
- b) A traffic study which sets forth what the maximum estimated volume of traffic into and out of the MEO will be, which describes the kinds of trucks and equipment which will be going into and out of the MEO, which describes any existing or potential traffic hazards on roads servicing the site, and applicant's plans to address

them, and which describes the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual existing traffic condition in the vicinity of the MEO.

c) Sound study which demonstrates compliance with 2008.2.11.

2002.2.2.19 Any other pertinent information the Planning Board may require.

2003 Adjoining Mineral Extraction Activities That Join Under A Common Scheme of Development

Adjoining mineral extraction activities that join under a common scheme of development separated by less than 500 feet of unaffected land shall be required to fulfill all the requirements as established in this Ordinance for the total size of the extraction area, including the adjoining site.

2004 Waiver of Submission

Where the Board makes written finding of the fact that there are special circumstances of a particular MEO, and in MEOs that affect an area less than one (1) acre and over five thousand (5,000) square feet, it may waive portions of the submission requirements, providing the public health and safety and welfare are protected, and the waivers do not have the effect of nullifying the intent and purpose of this Addendum.

2005 Application Procedures

2005.1 Application forms for MEOs shall be provided by the Town of Eddington, and submitted to the CEO, pursuant to Chapter 4 of this Zoning Ordinance. The application shall be accompanied by a fee pursuant to Section 305.3 Fees of this Zoning Ordinance.

2005.2 Public Hearing

Mineral extraction applications for new operations and expansion of previous operations, of one acre or more in size, shall require a Public Hearing. Mineral extraction applications for new operations and expansion of previous operations, of one acre or less in size, may require a Public Hearing. Notifications shall be mailed to all abutters within 1,000ft of the subject parcel(s) property lines.

2006 Annual Inspections

The CEO, or his/her designee, shall conduct an annual compliance inspection prior to the anniversary date of the original permit, to determine whether the permit holder has complied with, or deviated from, the approved plan. An annual compliance fee is required. The CEO may also require at his/her sole discretion, for the MEO operator to cover the cost of 3rd party inspections such as sound or environmental studies if in his/her opinion such studies are required to verify compliance with the applicable performance standards contained in this ordinance. Reports shall be provided to the Planning Board, Select Board, and permit holder. In case of non-compliance, the CEO shall notify the permit holder via phone call and certified mailed letter, and allow the permit holder 48 hours to correct any issue(s). If compliance cannot be achieved within 48 hours, the permit holder shall notify the CEO via phone call and certified mailed letter, explaining the reason(s) for the delay. If the delay is reasonable, such as due to weather

conditions or shipping delays for new/replacement equipment, the permit holder shall have an additional 48 hours to correct the issue(s). Thereafter, the CEO may issue a STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION, until such time as compliance is achieved.

2007 Conditions and Limitations

2007.1 General

Before any mineral extraction activity begins, the applicant shall obtain all applicable permits required by town, state, or federal regulations, laws, or ordinances regulating such developments. Violation of other permits necessary for operation shall be considered a violation of this Addendum.

Before a Final Plan has been approved, the following is not permitted:

1. No material from any MEO may be sold.
2. Development of the infrastructure of the MEO is not permitted, including buildings, roads, and utility installations, except for:
 - a) To gain reasonable access to the site to undertake the studies and tests and survey required to become permitted;
 - b) A legal purpose other than mineral extraction; or
 - c) Another authorized use.

2007.2 Expiration/Cease/Lapse in Activity

Mineral Extraction initial permits shall expire two years from the date of issuance, unless the construction of mineral extraction activity has commenced. Thereafter, MEO operation permits shall expire if the MEO activity has ceased for a period of two years.

2007.3 Plan Revisions

Plan revisions, after approval, shall be made as provided for in 2010.2 of this Addendum.

2007.4 Expert Consultant

In the event that expert consultation is determined to be necessary under this Addendum, the charges for same shall be the responsibility of the applicant/operator.

2007.5 Transfer of Mineral Extraction Permit

When an MEO ownership is transferred:

1. the transferor shall notify the CEO of the transfer five business days prior to execution, who if applicable, shall notify the Planning Board of said transfer;

2. the transferee shall file a Notice of Intent to Comply similar to that required by the MDEP - 38 M.R.S.A. §490-C (borrow pits) and §490-R (quarries); and

3. the transferee must provide a new performance guarantee acceptable to the Select Board. The performance guarantee provided by the transferor must remain in force until the transferee's performance guarantee has been accepted and is in force.

2008 Performance Standards

2008.1 General Requirements

2008.1.1 Mineral extraction operations shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this article conflict with specific provisions of State laws or other town ordinances, the stricter provisions shall prevail.

2008.1.2 The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites in a safe manner as outlined in state and local building codes, other applicable state regulations, and state and local land use ordinances.

2008.1.3 In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Addendum and Planning Board conditions of approval are met.

2008.1.4 Where the Code Enforcement Officer and/or Planning Board determine there is a need for testing or measurements of standards during the application review phase, all reasonable testing shall be at the operator's expense.

2008.1.5 The Planning Board shall consider financial capacity, technical ability, and prior performance in its review of any application. If the applicant is found to be deficient in any of these area, it may deny the application.

2008.1.6 The Planning Board may deny the application if the application is not in compliance with other town, state or other regulations.

2008.2 Performance Standards

Unless otherwise noted, and not required in the application requirements, these standards apply to all mineral extraction operations 5,000 square feet and above.

Existing mineral extraction operations, after registering with the Town, may continue to operate at their present size. However, any expansions or new operations shall be regulated by the standards of this Zoning Ordinance and Addendum.

2008.2.1 Significant wildlife habitat.

Objective: To ensure that significant wildlife habitat is adequately protected. No mineral extraction operation may cause any detrimental effect to significant wildlife habitat.

Letters from the appropriate authoritative agencies shall be required as evidence of compliance with performance standards for significant wildlife habitat.

2008.2.1.1 No mineral extraction site or area may be located within any of the significant wildlife habitat areas identified below. (see 2008.2.13 for required setbacks):

- a) Habitat for species appearing on the most recent official State or Federal lists of endangered or threatened species;
- b) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c) Shorebird nesting, feeding, and staging areas, and seabird nesting islands;
- d) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission;
- e) High or moderate value fish spawning and nursery areas that have been identified by the Maine Department of Inland Fisheries and Wildlife;
- f) High or moderate value deer wintering areas or travel corridors that have been identified by the Maine Department of Inland Fisheries and Wildlife;
- g) Any other important habitat areas identified in the Eddington Comprehensive Plan, as adopted; and as defined in Maine Title 38 M.R.S.A. Section 480-B or in an area listed pursuant to the Maine Natural Areas Program, Title 12, Section 544.

2008.2.1.2 If any one of the above will be impacted, then secondary documentation required by the Planning Board or CEO may include, but is not limited to:

- a) An impact assessment report prepared by the appropriate authoritative agency or a qualified professional.
- b) A mitigation plan prepared by a qualified professional, such as a wildlife biologist, fisheries biologist, or botanist as appropriate.

2008.2.2 Solid waste and sewage disposal

Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be stored or disposed of in accordance with Maine Department of Environmental Protection (MDEP) Regulations, Chapter 404. See also Sections 804 and 807 of this Zoning Ordinance.

2008.2.3 Groundwater protection

Objective: To provide an adequate buffer for ground water and allow for filtration of impurities from surface water.

2008.2.3.1 No mineral extraction activity, including blasting, excavation, processing, storage or any related on-site activity, may cause the discharge of any liquid, gaseous or solid materials into surface or subsurface waters, if such discharge is of a nature, quantity, toxicity or temperature that may contaminate, pollute or harm such waters or cause nuisances, such as floating or submerged debris, oil or scum, discoloring, objectionable odor or taste, or that may be harmful to human, animal, or plant life.

2008.2.3.2 No mineral extraction activity, including blasting, excavation, processing, storage or any related on-site activity, may cause any pollutant to be deposited on or into the ground or discharged into the waters of the State, if such deposit or discharge, by itself or in combination with other activities or substances, will impair designated uses or the water classification of any water body, tributary stream, or wetland.

2008.2.3.3 Extraction may not occur within 5 feet of the seasonal high water table, except as noted in the table in 2008.2.13.1 Minimum Setbacks. At the applicants' expense, a benchmark sufficient to verify the location of the seasonal high water table must be established and at least three test pits or monitoring wells to measure both quantity and quality, must be established on each five acres of unreclaimed land, to assure there are no adverse impacts to any water supplies or wells, public or private, off site. These wells shall be located as one upgradient and two downgradient.

2008.2.3.4 No mineral extraction may reduce the quantity or quality of any public or private drinking water supply. Predevelopment water quantity and quality data must be collected for a year in accordance with MDEP regulations, prior to operation, to establish reference values for any public or private water supply within 1,000 feet of a mineral extraction.

2008.2.3.5 A mineral extraction activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydrogeologic evaluation performed by a qualified professional, determines this will not represent an environmental hazard or threaten drinking water supplies.

2008.2.3.6 All storage facilities for fuel or chemicals must comply with the applicable rules and regulations of the Maine Department of Environmental Protection and the State Fire Marshal's Office.

2008.2.3.7 Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other on site activity involving storage or use of products that, if spilled, may contaminate groundwater, must be conducted in accordance with the SPCC Plan

and follow Performance Standards for the Storage of Petroleum Products as outlined and included in the most recent MDEP guidelines.

2008.2.3.8 Routine maintenance operations are allowed for fixed equipment such as screeners provided that precautionary measures such as portable drip pans or vacuum devices are used.

2008.2.3.9 If the Planning Board reasonably determines that independent evaluation and consultation would assist it to determine if the applicant has met the standard regarding risks of pollution, it may require additional information or evidence, either from the applicant, or by one or more of the following means:

- a) Review of the applicants hydrogeology study or assessment prepared by a qualified professional.
- b) A design for the handling and storage of materials at risk of polluting surface or subsurface waters, prepared by a qualified professional
- c) A professional review of any private or public water supply system
- d) A water quality or quantity test.

The cost of these items shall be borne by the applicant, but the Planning Board shall have authority to determine which professionals to undertake any such investigation or consultation.

2008.2.3.10 Standards for Ground Water Impacts

- a) Projections of ground water quantity and quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- b) No mineral extraction activity shall increase any predevelopment contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No mineral extraction activity shall increase any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary
- c) If ground water contains contaminants in excess of the primary standards, and the activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

2008.2.4 Natural buffer strip

Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by the excavation or activities related to the mineral extraction operation prior to submission, that vegetation must be reestablished as soon as practicable.

2008.2.5 Protected natural resources

2008.2.5.1 A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, coastal wetland or freshwater wetland as defined in Title 38 M.R.S.A., Section 480-B. The width requirements for natural buffer strips are as follows:

2008.2.5.2 A natural buffer strip at least 100 feet wide must be maintained between the mineral extraction operation and the normal high water line of any permanent surface water body or wetland.

2008.2.5.3 A natural buffer strip at least 75 feet wide must be maintained between the mineral extraction operation and the normal high water line of a seasonal water body or wetland.

2008.2.6 Public and private roads

A natural buffer strip at least 150 feet wide must be maintained between the working edge of an excavation and any public road right of way and a strip at least 50 feet wide must be maintained from the edge of any off-site private road. No below grade excavation or mining shall be allowed within 200 feet of any public road right of way.

2008.2.7 Property boundary and buffers

2008.2.7.1 All buffers must be preserved in their natural vegetative state as existed six months prior to an application for a new mineral extraction operation, or for an expansion to an existing mineral extraction operation, in the natural vegetative state that existed at time of initial licensing by the Town. If the natural buffer has been disturbed, the disturbance shall be explained to the Board and the Board shall determine if any replanting is necessary.

2008.2.7.2 To minimize visual impacts and provide for wildlife, a natural buffer strip at least 50 feet wide must be maintained between property boundaries.

2008.2.7.3 A natural buffer strip at least 300 feet wide must be maintained between all mineral extraction operations and the closest edge of an existing residence, business, or farm building used for livestock on abutting properties at the time of the application.

2008.2.7.4 A natural buffer strip at least 100 feet wide (quarries) and 50 feet wide (borrow pits) must be maintained between an excavation and any property boundary.

2008.2.7.5 The natural buffer strip between excavations owned by abutting owners may be eliminated with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff from either excavation across the property boundary.

2008.2.7.6 To protect abutters from dust, noise and unsightly appearance, the Planning Board shall require the applicant to provide screening to shield all operations from surrounding property where there is inadequate natural buffer. Trees may be required for a buffer. The buffer material must be effective all year round. Buffers must be complete before excavation begins.

2008.2.7.7 A physical barrier, in the form of a vegetated buffer or screening or a combination of both, must be provided to minimize any detrimental effect of a mineral extraction operation beyond its property lines, to the greatest practical extent. The barrier must be long enough, wide enough, high enough and sufficiently dense or otherwise appropriately designed to serve its intended purpose.

2008.2.7.8 Buffers adjacent to a protected natural resource must comply with the requirements of the Natural Resources Protection Act.

2008.2.7.9 Buffer strips must be comprised of vegetation species that the Planning Board or CEO find suitable and sufficient to accomplish the required mitigation. The buffer strip is intended to be effective year round. Plant material should be comprised of a variety of native deciduous and evergreen species. All buffer strips must be maintained by the owner.

2008.2.7.10 Except for buffers subject to requirements of 2008.2.7.7 and 2008.2.7.8, buffer strips may be replaced by screening if the screening provides at least an equivalent level of mitigation as a buffer strip for the relevant detrimental effects. Screening must comply with the following requirements:

- a) Screening may be comprised of man-made objects such as buildings, structures, earth berms or fences. Any such object must be in good repair and maintained as required. Mobile homes, vehicles, box trailers and similar structures may not be used for screening purposes.
- b) Screening may be comprised of natural features in the topography of a site such as hills, gullies, or rock outcrops.
- c) Fencing must be constructed with materials designed for such use. The installation must be designed to resist the effects of frost.

- d) Fences must be properly maintained by the owner. Structures and fences used for screening should be located at a sufficient distance from property lines to allow access for maintenance on all sides without intruding upon abutting properties.

2008.2.8 Erosion and sedimentation control

2008.2.8.1 All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained unless an engineering plan is provided and approved by the Planning Board.

2008.2.8.2 All erosion and sedimentation plans must conform to standards outlined in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, most recent edition.

2008.2.8.3 Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

2008.2.8.4 Sediment may not leave the parcel or enter a protected natural resource.

2008.2.8.5 Grubbed areas not internally drained must be stabilized.

2008.2.8.6 Erosion and sedimentation control for access roads must be conducted in accordance with MDOT best management practices for erosion and sedimentation control.

2008.2.8.7 Land shall be restored and stabilized according to the Reclamation Plan

2008.2.9. Surface water protection and storm water management

2008.2.9.1 Surface water discharges from areas not required to be naturally internally drained may not be increased as a result of storm water runoff from storms up to a level of a 25-year, 24-hour storm as defined by the US Geological Survey. Accumulated water from precipitation must be put into sheet flow whenever possible. Any discharge points must be directed to an undisturbed natural buffer strip. The discharge point must be at least 250 feet away from a protected natural resource. The slope of the discharge area shall be less than or equal to 15%.

2008.2.9.2 For projects exceeding 1 acre, a volume calculation shall be provided demonstrating that the area(s) will safely handle a volume of precipitation at least equal to that which may be expected in the area from the 25-year, 24-hour storm event for the region, such that post-development stormwater runoff rates may not exceed pre-development stormwater runoff rates.

2008.2.9.3 No Mineral extraction may increase or alter storm water flows without first implementing appropriate storm water management controls to prevent environmental damage, flooding, property damage, or the overburden of existing storm water management systems or features.

2008.2.9.4 No grading or other construction activity may alter existing natural drainage to the extent that drainage will adversely affect adjacent property or that drainage ways flowing from adjacent parcels of land to the project will be impeded.

2008.2.9.5 The Planning Board or CEO may require storm water to be externally-drained from the working pit of any rock excavation if there is reasonable concern that groundwater pollution would occur from stormwater that is internally-drained, or if the working pit extends below the annual high-water table.

2008.2.9.6 External drainage of stormwater from excavation MEO is subject to compliance with the following requirements:

- a) Stormwater intended to be externally-drained from a working pit or related impervious areas must be drained to an engineered storage facility for required treatment and disposal.
- b) Stormwater must be discharged from a storage facility at a rate that may not exceed the pre-development stormwater runoff rate for storms up to a level of intensity of a 25-year, 24-hour storm.
- c) The design of stormwater storage facilities must address safety, appearance, and the cost and effectiveness of maintenance operations, in addition to the primary storage function.
- d) Any drainage variance required by MDEP must be granted.
- e) All stormwater facilities must be properly maintained. Stormwater management plans must define maintenance requirements and identify parties responsible for the required maintenance.

2008.2.9.7 The disposal of stormwater on-site must use existing natural runoff control features of the site to the greatest extent possible. Natural runoff control features include, but are not limited to, earth berms, swales, terraces, and wooded areas.

2008.2.9.8 Natural and man-made drainage ways and drainage outlets must be stabilized with vegetation or riprap to prevent erosion caused by water flowing through them.

2008.2.9.9 Easements must be provided to the municipality where appropriate to ensure proper maintenance of drainage ways. Easement widths must be sufficient to allow access for maintenance and repairs to the drainage way or any structures

therein, and in no case may the width be less than 30' wide. If the municipality needs to perform this work, it shall be at the operator's expense.

2008.2.9.10 A stormwater management plan must be submitted to the Planning Board or CEO for any mineral extraction subject to State permitting in accordance with 38 M.R.S.A. § 420-D (the Stormwater Management Law), 38 M.R.S.A. § 481 (the Site Location of Development Law) or any mineral extraction that is within the watershed of a great pond at risk from development, as identified by the Maine Department of Environmental Protection. A stormwater management plan is also required for any other mineral extraction if external drainage of stormwater is required in accordance with section 9.3, or if the Planning Board or CEO has determined by majority vote that the risk of detrimental effects to abutting properties or the environment warrants an engineered design for the management of stormwater.

2008.2.9.11 Stormwater management plans must be prepared by a Maine licensed Professional Engineer.

2008.2.10 Traffic

The following provisions govern traffic.

Objective: To ensure that any detrimental effects to the safety and sufficiency of streets are adequately mitigated.

2008.2.10.1 Any street providing direct access to a mineral extraction must have the capacity to accommodate expected traffic flow increases, so as to avoid unreasonable congestion or safety hazards.

2008.2.10.2 Where necessary to safeguard against hazards to traffic or to avoid traffic congestion, provision must be made for turning lanes or traffic controls.

2008.2.10.3 Entrances and exits of the mineral extraction operation onto a public way must be located, posted and constructed in accordance with standards for roadways adopted by the Town of Eddington Zoning Ordinance and the DOT. Adequate distances for entering, exiting and stopping must be maintained in accordance with these standards.

2008.2.10.4 A traffic study may be required at the discretion of the Planning Board, when there are documented concerns from MDOT, the municipal road commissioner, the municipal public safety department, a qualified traffic engineering professional or local residents, about traffic safety or capacity deficiencies of a public road that may occur due to increased truck traffic to and from the mineral extraction operation. The public road must provide direct access to the entrance for the mineral extraction operation in order to warrant a traffic study.

2008.2.10.5 Full traffic study requirement:

If the operator will meet a) or b) below, the operator shall provide a full traffic impact study at his or her own expense. This study is subject to review by another consultant of the Town's choosing at the operator's expense. The safety and congestion mitigation measures recommended shall be followed by the operator.

- a) Volume. If during any one hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound.
- b) Safety or capacity deficiencies. The Planning Board, in consultation with the Maine Department of Transportation, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
- c) Content of full traffic study. If a full traffic study is required under paragraph i., as determined by the Planning Board, the developer/operator shall follow the procedures and requirements as detailed in "Access Management Standards, Access Management: Improving the Efficiency of Maine Arterials, A handbook for Local Officials", Maine Department of Transportation, most recent edition, Appendix A.

Any study is at the property owners expense and such study is subject to review by another consultant of the town's choosing.

Proposed improvements to existing public streets must be approved in writing by the Town of Eddington Selectboard, the town road commissioner, or the Maine Department of Transportation, as applicable.

2008.2.11 Noise

Objective: To ensure that any detrimental effects from noise are adequately mitigated and abutters may continue the peaceful enjoyment and use of their entire property.

2008.2.11.1 The maximum permissible sound level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any mineral extraction activity must comply with the requirements of this section.

2008.2.11.2 Exemptions

Sound associated with the following shall be exempt from regulations by the Planning Board:

- a) Warning signals and alarms.

- b) Safety and protective devices installed in accordance with code requirements.
- c) Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.

2008.2.11.3 The sound level limits contained in this regulation apply to all property lines of the proposed mineral extraction site or area, or contiguous property owned by the operator, whichever are further from the proposed operation's regulated sound sources.

2008.2.11.4 The sound level limits contained in this regulation do not apply to noise within the mineral extraction site, area, or operation boundary.

2008.2.11.5 Information to be supplied by applicant:

- a) List of equipment types and number of each piece of equipment.
- b) Manufacturer specifications for dB levels for each piece of equipment.
- c) Any additional information deemed necessary to fulfill the requirements of this section.

2008.2.11.6 An independent third-party sound study shall be conducted by a qualified consultant of the Board's choosing. The cost of the study shall be borne by the Applicant. Alternatively, prior to commencement of the study, the Applicant may submit the credentials of an independent third-party consultant of their choosing, for the Board's review and approval. The study shall include written certification from a Qualified Independent Acoustical Consultant that the noise measurements are accurate and the noise from the completed development will conform to this section.

2008.2.11.7 All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter with one-third octave band analyzer with frequency range from 6.3 Hz to 20k Hz and capability to simultaneously measure dBA LN and dBC LN. The instrument must also be capable of measuring low level background sounds down to 20 dBA, and must conform, at a minimum, to the requirements of ANSI S1.43-1997. Measurements shall only be made with the instrument manufacturer's approved wind screen. A compatible acoustic field calibrator is required with certified ± 0.2 dB accuracy.

2008.2.11.8 Pre development background noise levels shall be measured at each property boundary line of the proposed development, as well as representative Protected Locations within a one-mile radius of the property boundary of the proposed development. Readings shall be taken at representative times throughout the proposed hours of operation, including at night if any equipment is

proposed to run after operation hours (i.e. pumps, generators, etc), at the same location along each of the property boundary lines. Readings shall not be taken when construction activity, abnormal traffic conditions or other extraordinary conditions are occurring within 500 feet of the property boundary.

2008.2.11.9 The duration of each measurement shall be ten continuous minutes at each location. Longer-term tests are not appropriate. The duration must include at least six minutes that are not affected by transient sounds from near-by and non-natural sources. Multiple ten-minute samples over longer periods may be used to improve the reliability, in which case the quietest ten-minute sample will be used.

2008.2.11.10 Measurements shall be taken during the time of day (or night, if applicable as described above) expected to have the quietest background sound level, as appropriate for the site.

2008.2.11.11 Measurements must be made on a weekday of a non-holiday week.

2008.2.11.12 Measurements must be taken at a height of four feet above the ground and at least fifteen feet away from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Addendum or Zoning Ordinance.

2008.2.11.13 Measurements taken when the wind speeds exceed 4.5 miles per hour at the microphone location are not valid. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.

2008.2.11.14 Sound Level Limits

Except as allowed for production blasting, the hourly sound levels resulting from the mineral extraction operation shall not exceed the following limits:

- a) The proposed development shall not cause the pre development background noise level to increase by 10 decibels (dBA) during the day and 5 decibels (dBA) at night. In no case shall the ambient noise level as measured from the property boundary exceed the following absolute noise criteria:
- b) The maximum permissible noise from any continuous, regular, or frequent source of sound at a project property boundary shall be no more than 60 decibels between the hours of 7:00 a.m. to 5:00 p.m. and 45 decibels at all other times unless more strictly specified elsewhere in this addendum for a given activity.
- c) When a proposed mineral extraction operation is to be located in an area where the daytime pre-development ambient hourly sound level at a Protected Location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a

Protected Location is equal to or less than 35 dBA, the hourly sound levels resulting from routine operation of the mineral extraction operation shall not exceed: 55 dBA between 7 a.m. and 5 p.m. and 40dBA at all other times.

- d) The applicant shall modify the development as necessary to ensure that the noise emanating from the project conforms to the noise limits set forth in this section.

2008.2.11.15 Sound from Production Blasting

Sound exceeding the preceding limits and resulting from production blasting at a mineral extraction site or area shall be limited as follows:

Sound from blasting shall not exceed the following limits at any Protected Location:

Number of Blasts Per Day	Sound Level Limit
1	129 dbI
2	126 dbI
3	124 dbI
4	123 dbI

Blast sound shall be measured in peak linear sound level (dbI) with a linear response down to 5 Hz.

Refer to Bureau of Mines Report of Investigations 8485 for information on airblast sound levels and pertinent scaled distances.

2008.2.11.16 The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the mineral extraction operator has made adequate provision for the control of noise from the operation, and to reduce the impact of noise on protected locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

2008.2.11.17 The sound level limits prescribed in this regulation shall not preclude the Planning Board from requiring a mineral extraction operator to demonstrate that sound levels from a mineral extraction operation will not unreasonably disturb wildlife or adversely affect wildlife populations.

2008.2.11.18 The burden is on the Applicant to provide sufficient information to establish that the mineral extraction operation will meet the requirements of this Addendum and Zoning Ordinance.

2008.2.12 Dust and Air Pollution

Air pollution in the form of dust and dirt shall be kept to a minimum by the use of modern equipment and methods of operation designed to avoid excessive dust, dirt or other air pollution injurious or substantially annoying to adjoining property owners. Emission of dust and dirt at any point beyond lot lines may not exceed the guidelines set forth in this section.

2008.2.12.1 All air pollution control shall comply with minimum State requirements and all applicable equipment must have a current MDEP Air Emissions License.

2008.2.12.2 Dust generated by activities at the MEO site, including dust associated with traffic to and from the MEO site, must be controlled by a vacuum sweeper, paving, watering or other best management practices for control of fugitive emissions, pursuant to Maine DEP Erosion and Sediment Control BMP guidelines. Dust control method may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 (five) minutes in any one hour period.

2008.2.12.3 All access/egress roads leading to/from the extraction site to public ways shall be treated to reduce dust and mud for a distance of at least 100 feet from such public ways.

2008.2.12.4 Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Planning Board to keep trucking off residential streets whenever possible. Vehicles must abide by weight load limits on streets and ways. Spillage of extracted materials on public streets shall be removed by the licensee or his/her agent and /or the trucking operation(s) having any liability for such spillage, as soon as possible. Liability for violations deemed a nuisance shall be assigned to those truck operators and owners responsible and carry fines as set by the Select Board, especially to compensate the Town for any expenses incurred in ensuring safety of the area and traffic flow.

2008.2.12.5 No mineral extraction may emit smoke or dust beyond the property boundaries in such concentration and duration that causes any detrimental effects including, but not limited to:

- a) Excessive soiling or staining of property
- b) Excessive surface accumulation of particulates
- c) Hazardous reduced visibility for motorists
- d) Breathing difficulties or other adverse health effects

2008.2.12.6 The Planning Board or CEO may consider the direction of prevailing winds, and existing vegetation and topography in determining the risk of detrimental effect of smoke or dust on abutting properties and the public

2008.2.12.7 If the Planning Board or CEO reasonably determines that additional evidence would assist it to determine if the applicant has met the standard regarding risks of smoke or dust pollution, then it may require additional information or evidence, either from the applicant, or by one or more of the following means:

- a) Baseline air quality review findings, and a possible second review after operations have commenced, if a problem has been reported.
- b) A mitigation plan prepared by a qualified professional.

2008.2.12.8 No mineral extraction may emit putrid, fetid or noxious odors beyond the property boundaries in such concentration and duration that causes a detrimental effect to the use and enjoyment of property or to the public health and safety.

2008.2.12.9 The Planning Board or CEO may consider the direction of prevailing winds, and existing vegetation and topography in determining the risk of detrimental effect of odors on abutting properties and the public.

2008.2.12.10 The Planning Board or CEO may require secondary documentation of any mineral extraction that may be a source of putrid, fetid or noxious odors.

2008.2.12.11 Secondary documentation required by the Planning Board or CEO may include, but is not limited to:

- a) An analysis or study of the detrimental effects of specific nuisance odors prepared by a qualified professional
- b) An odor mitigation plan prepared by a qualified professional.

2008.2.13 Dimensional Standards

2008.2.13.1 Minimum Setbacks

MINIMUM SETBACK OF → FROM ↓	A STONE EXCAVATION	A GRAVEL OR SAND EXCAVATION	A CLAY, PEAT OR SILT EXCAVATION	A TOPSOIL EXCAVATION	A PROCESSING OR STORAGE AREA
1. THE PROPERTY LINES OF:					
1.A. A PROTECTED LOCATION LOT	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
1.B. ANY OTHER LOT	100'	100'	100'	100'	100'
1.C. A CEMETERY OR BURIAL GROUND	100'	50'	50'	50' [1]	50'
2. STRUCTURES	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
3. THE SHORELINE OF:					
3.A. A GREAT POND, OR RIVER OR STREAM FLOWING TO A GREAT POND	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
3.B. ANY OTHER RIVER OR STREAM, AS DEFINED	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
3.C. ANY FRESHWATER WETLAND, AS DEFINED	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
4. THE RIGHT OF WAY OF:					
4.A. A PUBLIC ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4.B. A PRIVATE ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4.C. A PUBLIC WAY WITHOUT A ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4.D. A PRIVATE WAY WITHOUT A ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
5. A PREDEVELOPMENT PRIVATE DRINKING WATER SUPPLY THAT IS:					
5.A. A POINT-DRIVEN OR DUG WELL	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
5.B. A DRILLED WELL	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
6. A PUBLIC DRINKING WATER SOURCE	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
7. THE SEASONAL HIGH WATER TABLE	NONE [2]	5' [1]	5' [1]	5' [1]	5' [1]
8. SIGNIFICANT WILDLIFE HABITAT	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]

[1] The setback may not be reduced by variance.

[2] Excavation below the seasonal high water table must be approved by DEP.

2008.2.14 Reclamation

The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Extraction operations shall be considered completed when there has been no activity for 731 days, and reclamation activities shall begin. Reclamation shall be conducted in accordance with the MDEP's best management practices for erosion and sedimentation control and must include the following:

2008.2.14.1 Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.

2008.2.14.2 Side slopes of gravel pits must be regraded to a slope no steeper than four (4) feet horizontal to one (1) foot vertical.

2008.2.14.3 Within six months of the completion of extraction operations, ground levels and grades shall be established in accordance with the reclamation plan; within 30 days of final grading, topsoil must be placed, seeded and mulched; all dependent upon seasonal weather conditions. Vegetative cover must be established on all affected land, except for quarry walls and flooded areas. This requirement may be waived if the CEO determines that the slope(s) exhibit substantial vegetation and are stable.

2008.2.14.4 Vegetative cover is acceptable if within one year of seeding:

- a) The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and
- b) The planting of all material results in permanent 90% ground cover.

2008.2.14.5 Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these. These should be native to the area where the project is located.

2008.2.14.6 All access roads, haul roads and other support roads must be reclaimed, unless reserved for future productive use of the land, as described in the reclamation plan.

2008.2.14.7 All structures or temporary shelters and equipment used in active extraction operation shall be removed within 30 days following completion of active extraction operations.

2008.2.14.8 All affected lands must be reclaimed within 2 years after final grading.

2008.2.14.9 Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the applicant demonstrates that the soil is not needed for reclamation purposes. Stockpiles must be seeded, mulched or otherwise stabilized. Whenever practical, at least 4 inches of topsoil should be used for final cover.

2008.2.14.10 The site must be reclaimed in phases so that the active extraction area does not exceed 5 acres at any time. This refers to the area of extraction and does not include roads, structures, stockpiles, etc. not part of the active mineral extraction operation.

2008.2.14.11 The deed/s for subject property/properties must note that the land is operated as a MEO by either the owner or an entity other than the owner (must specify which), and further, the property/properties is/are subject to a reclamation plan fulfillment as a condition of permit approval. The deed/s shall be filed at the Penobscot County Registry of Deeds.

2008.2.14.12 Upon completion of the reclamation, or the reclamation phase, a written reclamation certificate, signed by a registered professional engineer, shall be provided to the Select and Planning Boards.

2008.2.15 Blasting

Blasting shall be conducted in accordance with Maine DEP regulation Article 8-A Performance Standards for Quarries most current version, for all MEO's of any size, with the following additional restrictions:

2008.2.15.1 The maximum allowable airblast at any inhabited building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or - 3 decibels) over the range of 5 to 200 hertz

2008.2.15.2 If necessary to prevent damage, the Planning Board may specify lower maximum allowable airblast levels than those in 2008.2.15.1 of this section for use in the vicinity of a specific blasting operation.

2008.2.15.3 A preblast survey is required for all production blasting for all MEOs of any size and must extend for a minimum radius of 1/2 mile from the blast site. The preblast survey must document any preexisting damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems must be limited to surface conditions and other readily available data, such as well yield and water quality. The preblast survey must be conducted prior to the initiation of blasting at the operation. The owner or operator shall retain a copy of all preblast surveys for

at least one year from the date of the last blast on the development site. Any person owning a building within a pre-blast survey radius may voluntarily waive the right to a survey. If there is a change in homeowner during the duration of the MEO and the previous owner rejected a pre-blast survey, the new homeowner has the right to request a pre-blast survey.

2008.2.15.4 The owner or operator is not required to conduct a preblast survey if the Board determines that no protected natural resource within the limits of the otherwise required survey is likely to be affected by blasting and production blasting will not occur within a half mile of any building not owned or under the control of the developer.

2008.2.15.5 Blasting may not occur in the period between 3:00 p.m. and 10:00 a.m. of the following day.

2008.2.15.6 Routine production blasting is not allowed on Saturday, Sunday, and holidays as specified in 2008.2.16. Detonation of misfires may occur outside of these times but must be reported to the Town Office within 5 business days of the misfire detonation.

2008.2.15.7 Blasting may not occur more frequently than 4 times per day.

2008.2.15.8 Under no circumstances shall the Planning Board permit any blasting within one hundred fifty (150) feet of an adjoining property line.

2008.2.15.9 The maximum peak particle velocity at inhabitable structures not owned or controlled by the operator may not exceed the levels established in MDEP Article 8-A, Performance Standards for Quarries, current version, 38 M.R.S.A. § 490-Z.14.K. (Blasting), including Table 1 and the graph published by the U.S. Dept. of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1.

2008.2.15.10 Either of the above referenced guidelines must be used to evaluate ground vibration effects for those blasts for which a preblast survey is required and/or when blasting is to be monitored by seismic instrumentation.

2008.2.15.11 The maximum allowable ground vibration may be reduced by the Planning Board beyond the limits otherwise provided by this section, if determined necessary to provide damage protection.

2008.2.15.12 A record of each blast must be compiled in accordance with the specifications in the above mentioned Article 8-A, current version. In addition, pre-blast, blast, and post blast linear- peak sound levels in decibels shall be included for each airblast.

2008.2.15.13 The records for each blast, including all monitoring records, shall be filed with the Town no more than ten (10) calendar days after each blast.

2008.2.15.14 Blasting Schedule and Notification. A blasting schedule shall be prepared by the blaster and be published in a newspaper of general circulation in the locality, at least 10 days, but not more than 30 days, before beginning a blasting program. Copies of the schedule shall be distributed via first-class mail at least ten days before beginning the blasting program, to the Town, public and private utilities and quasi-utilities, schools and to all abutters and residences within one mile of the proposed blasting site described in the schedule and, as outlined in 30 CFR 816.64, shall contain, at a minimum:

- a) 1) Name, address, and telephone number of operator;
- b) 2) Identification of the specific areas in which blasting will take place;
- c) 3) Dates and time periods when explosives are to be detonated;
- d) 4) Methods to be used to control access to the blasting area; and
- e) 5) Type and patterns of audible warning and all-clear signals to be used before and after blasting.

24 hours prior to the blast date(s), information shall be distributed via phone calls by the MEO Operator to the above-mentioned parties. MEO Operator shall maintain a written call log of date and time parties were called, whether the receiving party answered or a message was left.

2008.2.15.15 Blasting will only occur at times when weather conditions will not cause adverse effects of surrounding properties, i.e., wind velocity that would carry dust to other properties. If weather or other site conditions inhibit the ability to blast between the above hours, the Town Manager or a Public Safety Official may grant the operator the ability to blast outside these times in order to ensure public safety. The operator and Town Manager or Public Safety Official shall jointly determine if the operator must notify by phone all parties as required per 2008.2.15.14.1

2008.2.16 Hours of Operation

The following shall apply to specific applications of the operation:

Blasting	10 am – 3 pm	Monday – Friday
Drilling	7 am – 5 pm	Monday – Friday
	7 am – noon	Saturday
Processing	7 am – 5 pm	Monday – Friday
Loading & Trucking	7 am – 5 pm	Monday – Friday
	7 am – noon	Saturday

2008.2.16.1 No operations are allowed at night, on Sunday or on the following holidays: Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

2008.2.16.2 In the case of emergency requests for sand or gravel from public safety officials, the above hours may be waived.

2008.2.16.3 The Planning Board/Select Board may impose more restrictive operating hours pursuant to Section 402 of this Zoning Ordinance, if warranted by site conditions, or if the operation interferes with existing adjacent land uses.

2008.2.16.4 If weather or other site conditions inhibit the ability to blast between the above hours, the Town Manager or a Public Safety Official may grant the operator the ability to blast outside these times in order to ensure public safety. The operator and Town Manager or Public Safety Official shall jointly determine if the operator must notify by phone all parties as required per 2008.2.15.14.

2008.2.17 Fencing and Security

Fencing around dangerous excavations, pits, and pond areas shall be required at the Planning Board's discretion, to maintain public safety. Access to the mineral extraction operation shall be strictly controlled with locking gates at the entrance of access roads. When the pit is not being operated, all vehicular entrances shall be made impassable. The CEO will enforce any special conditions arising from the site plan review.

2008.2.18 Signs and Lighting

Signs and lighting must comply with the standards of this Zoning Ordinance.

2008.2.19 Preservation of Natural and Historic Features

The scenic, historic or environmentally sensitive areas or any areas identified in the Comprehensive Plan or by the Maine Natural Areas Program as rare and irreplaceable areas shall be preserved.

2008.2.20 Stockpiling

Stockpiling of excavated materials subject to the definition in Chapter 11 of this Zoning Ordinance, is allowed subject to the following requirements:

2008.2.20.1 Total cumulative stockpile area may not exceed two acres in footprint size, or twenty percent of the total area of the Mineral Extraction Site or Area, whichever is less.

2008.2.20.2 Stockpiles consisting of materials that pose a sediment or erosion control issue shall be stabilized or covered at all times in accordance with standard Maine DEP Best Management Practices.

2008.2.20.3 The limits of the stockpile area shall be clearly marked in a manner acceptable to the CEO, may include but is not limited to bollards or measurements

of offsets from nearby structures or landmarks, in order to establish the maximum extent of the pile area.

2008.2.20.4 Stockpile areas shall be screened so as not to be visible to abutting properties.

2009 Performance Guarantees

A performance guarantee must be required for improvements to public property that are required for a mineral extraction operation, including but not limited to road repairs, turning lanes, traffic signals, and signage.

A performance guarantee must be required for required reclamation.

Other performance guarantees may be required pursuant to Section 405 of this Zoning Ordinance.

2009.1 Types and Contents of Guarantees

Accompanying an application for Final Plan of new or enlargement of existing MEOs, one of the performance guarantees as outlined in section 710 of this Ordinance must be submitted for an amount adequate to cover the total cost of all required reclamation and improvements, taking into account the time-span of the production schedule and the inflation rate for construction costs.

Any costs incurred by the municipality in reaching the appropriate number amount for the Performance Guarantee shall be borne by the applicant. It should contain the reclamation schedule, with date after which the permit holder will be in default, with estimates for each plan of reclamation, including inspection costs. The amount shall be determined by the Select Board after consultation with the Planning Board, Road Commissioner, Town Attorney, and/or other appropriate consultants.

2009.2 Phased Guarantees

The Board may approve Phased Performance Guarantees when an MEO is approved in separate distinct phases.

2009.3 Release of Guarantees

Prior to the release of any part of the performance guarantee, the Planning Board must determine that the improvements or reclamation subject to the guarantee meet or exceed the design and construction requirements for that portion or phase of the project for which the release is requested. The determination must be based on the report of a certified engineer or other consultant(s) retained by the municipality and any other agencies and departments that may be involved.

2009.4 Default

If, upon inspection by the CEO, or his/her designee, it is determined that the reclamation has not followed the previously approved plan, he/she shall so report to the Select Board, Planning

Board, and permit holder. The permit holder shall have thirty (30) days, unless otherwise notified, to remedy any deficiencies.

2009.5 Return of Guarantees

Any guarantee remaining at the end of a project shall be returned to the permittee, plus any accrued interest.

2010 Miscellaneous

2010.1 Costs

The applicant shall be required to bear full costs of all inspection, consultants, and all enforcement. If the Planning Board determines the need of expert advice, applicant will be notified of name, qualifications, purpose for needing expert, and approximate cost for expert's services. Please see section 401.6 of this Zoning Ordinance

2010.2 Amendment after Approval

No modifications shall be made in an approved Final Plan unless they have been resubmitted to and approved by the Planning Board. Applications to modify will be handled in the same manner and under the same standards as an initial application, except that, after initial review whether by pre-application meeting or otherwise, the Planning Board may, in cases involving modification involving less than 5% of the gross area of the active project, or merely technical modifications to meet any changing federal or state regulation, may waive a requirement of evidence of meeting those standards to the extent that the Planning Board has already determined that standard to have been met based on the prior permit and any modifications..

2010.3 Enforcement

Please see Sections 201 and 202 of this Zoning Ordinance.

2010.4 Right of Entry Onto Land

The CEO shall have the right of entry onto any mineral extraction activity site at reasonable times and after reasonable notice. If the operator, or its employee or agent, interferes with an inspection by the CEO, the CEO may seek an administrative search warrant pursuant to court rule 80E, and the operator shall pay the town a civil penalty in an amount determined by the Select Board plus any legal fees incurred in obtaining that warrant.

2010.5 Penalties

Any activity that violates the terms or conditions of any MEO permit, approved by the Planning Board, or any activity that proceeds without a permit, shall be deemed a nuisance, and the owner/operator shall be subject to a civil penalty, expert witness fees, costs of court, and legal fees due and payable to the Town of Eddington, in an amount determined by the court in accordance with the penalty provisions of 30-A M.R.S.A. Section 4452.

2010.6 Performance Record

The Planning Board or CEO may consider the performance record of the applicant and those responsible for the management of the operation when developing conditions of approval addressing the operation of the facility. The performance record to be reviewed must include any prior violation, suspension, or revocation of a permit issued under this ordinance, or similar permits issued by any other agency of government, and any other environmental enforcement history. Any condition of approval related to an unsatisfactory performance record must be specifically intended to mitigate performance concerns.

2010.7 Severability

Please see Section 106 of this Zoning Ordinance.